

## **EXHIBIT “H”**

1 IN THE UNITED STATES COURT  
2 FOR THE DISTRICT OF NEW JERSEY  
3 Civil Action No. 1:09-CV-01062-RBK-AMD

4 BRADLEY MANN, et al, :

5 Plaintiff, :

6 v. : Deposition of

7 TD BANK, NA, et al, : NIKUNJ BULSARA

8 Defendant. :

9  
10 Transcript of deposition taken  
11 by and before CYNTHIA BAUERLE, a Certified  
12 Shorthand Reporter and Notary Public, at the  
13 offices of ELCHEN, CRUTCHLOW & McELROY, LLP,  
14 40 Ethel Road, Edison, New Jersey 08817, on  
15 Wednesday, May 19, 2010 commencing at 12:20  
16 p.m.

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21  
22  
23  
24  
25 Job No. NJ258553

2

1 APPEARANCES:

2

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9

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15 Representing the Defendant

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1 NIKUNJ BULSARA after having been first duly

2 sworn, was examined and testified as follows:

3 EXAMINATION BY MR. STIO:

4 Q. Good afternoon, Mr. Bulsara. My

5 name is Anglo Stio. I am an attorney with

6 Pepper Hamilton and I'm here to take your

7 deposition today. It is in the matter of Mann

8 versus TD Bank North and you are a named

9 plaintiff in that case. Before I start taking

10 your deposition, I'd like to just give you a

11 few instructions that will allow this

12 deposition to go smoother and allow the court

13 reporter to memorialize everything that occurs

14 today.

15 The first instruction is that you were

16 just given an oath to tell the truth. Even

17 though we are not in a court of law you will

18 be expected to testify truthfully and penalty

19 of perjury would apply if you did not testify

20 truthfully. Do you understand that

21 instruction?

22 A. Yes.

23 Q. Second instruction is that we

24 need you to answer verbally. No nonverbal

25 gestures because the court reporter needs to

3

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10 EXHIBITS

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12 NO. DESCRIPTION PAGE

13 Bulsara-1 Photocopy of gift card 39

14 Bulsara-2 Photocopy of gift card 45

15 Bulsara-3 Plaintiff's First Amended Class

16 Action Complaint 88

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18 SPECIAL REQUESTS

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5

1 take down everything that is said. Do you

2 understand that instruction?

3 A. Yes.

4 Q. If you need to take a break at

5 any time, just let me know. I would ask,

6 though, that if you are going to take a break,

7 we take a break after you answer a question.

8 Not in the middle of a question, fair?

9 A. Okay.

10 Q. Last instruction is that one of

11 my jobs is to give you intelligent questions

12 that you understand. If you don't understand

13 a question, I ask you to stop me. Tell me you

14 don't understand it and I'll try to make it

15 understandable. By the same token, if you

16 answer a question, we'll assume that you

17 understood it. Is that fair?

18 A. Yes.

19 Q. Why don't we start with --

20 MR. LALLI: Before we -- it is

21 usual stipulations, but we are going to have

22 him read and sign.

23 MR. STIO: Okay. I wasn't here

24 for what your stipulations were, but I'm fine

25 with him reading and signing. I'm fine with

2 (Pages 2 to 5)

<p style="text-align: right;">6</p> <p>1 you preserving your objections for trial, but  2 I don't know what other ones there were.  3 MR. LALLI: The other one was  4 the weird old signing and sealing or filing of  5 the deposition. That's waved. That might be  6 a Pennsylvania thing.  7 MR. STIO: There is nothing in  8 New Jersey. I don't know what that is, but  9 I'm fine with the other two.  10 MR. LALLI: Thank you.  11 Q. Mr. Bulsara, am I pronouncing  12 that right?  13 A. Yes.  14 Q. Where do you reside?  15 A. 173 Plainfield  16 P-l-a-i-n-f-i-e-l-d Avenue in Edison  17 E-d-i-s-o-n New Jersey 08817.  18 Q. Thank you. How long have you  19 lived there?  20 A. Basically I would say all my  21 life.  22 Q. All your life?  23 A. Well, basically I was born in  24 New York.  25 Q. Where did you go to college?</p>	<p style="text-align: right;">8</p> <p>1 Q. What does that do?  2 A. Outsource OEM manufacturing.  3 Q. What does OEM stand for?  4 A. Basically Other Equipment  5 Manufacture.  6 Q. How long were you at Royal Gem  7 Star?  8 A. Basically up to 2008.  9 Q. And you were the co-founder.  10 Who is your other co-founders?  11 A. Basically they are overseas.  12 They are basically in China and Thailand. Do  13 you want me to name names?  14 Q. They are individuals?  15 A. They are individuals.  16 Q. Okay. But no family members.  17 No one in New Jersey?  18 A. My father.  19 Q. He is a co-founder, as well?  20 A. Technically, yes.  21 Q. Who is your father?  22 A. Thakor Bulsara.  23 Q. Can you spell that for me?  24 A. T-h-a-k-o-r. Bulsara,  25 B-u-l-s-a-r-a. I would like to add one thing</p>
<p style="text-align: right;">7</p> <p>1 A. Johns Hopkins.  2 Q. What was your degree?  3 A. Biomedical engineering.  4 Q. When did you graduate?  5 A. I didn't finish.  6 Q. Okay. Are you still at Johns  7 Hopkins?  8 A. Basically I am a few credits  9 short of it.  10 Q. When did you start?  11 A. In 2000.  12 Q. When did you stop going  13 full-time to Johns Hopkins?  14 A. 2005.  15 Q. In 2005 did you take on  16 employment at that time?  17 A. Yes.  18 Q. What was your first job in 2005  19 after you leave Johns Hopkins?  20 A. Well, basically I started -- I  21 co-founded a business.  22 Q. What was the business's name?  23 A. Royal Gem Star Corporation.  24 Q. Royal Gem Star?  25 A. Yes.</p>	<p style="text-align: right;">9</p> <p>1 about the educational part.  2 Q. Yes.  3 A. Basically I've done something at  4 Cambridge University.  5 Q. Okay. What did you do at  6 Cambridge University?  7 A. Basically -- it's basically  8 called a TKT. It is a language management  9 course.  10 Q. So if I can try to describe this  11 accurately. You took one course at Cambridge  12 University during the time you also were going  13 to Johns Hopkins?  14 A. What it is is a certification  15 basically to teach a language, foreign  16 language speakers of nonEnglish.  17 Q. So it's more than one course.  18 It is a series of courses?  19 A. Yes.  20 Q. When did you go to Cambridge?  21 A. Basically I self-taught. I  22 basically took the examination in Boston,  23 Massachusetts.  24 Q. Time frame now?  25 A. In 2009.</p>

3 (Pages 6 to 9)

<p style="text-align: right;">10</p> <p>1 Q. So we have you up until 2008 you</p> <p>2 are at Royal Gem Star?</p> <p>3 A. Right. I also would like to add</p> <p>4 another thing on educational. I've taken</p> <p>5 economic classes at Rutgers University in New</p> <p>6 Brunswick, New Jersey.</p> <p>7 Q. When did you do that?</p> <p>8 A. I would have to say -- I don't</p> <p>9 recall. It was a while ago.</p> <p>10 Q. Before Johns Hopkins or after</p> <p>11 Johns Hopkins?</p> <p>12 A. Basically in the summer sessions</p> <p>13 in between.</p> <p>14 Q. So as far as --</p> <p>15 A. I don't know exactly the time</p> <p>16 frames. I would have to look at the details.</p> <p>17 Q. That's fine. As far as</p> <p>18 education, we have you were at Johns Hopkins.</p> <p>19 You are a biomechanical engineering student.</p> <p>20 You go there full-time from approximately</p> <p>21 2000, 2005. You are a few credits shy of your</p> <p>22 undergraduate degree, correct?</p> <p>23 A. Right.</p> <p>24 Q. You then founded Royal Gem Star</p> <p>25 in 2005 with your father and a number of other</p>	<p style="text-align: right;">12</p> <p>1 A. Right.</p> <p>2 Q. Why do you leave?</p> <p>3 A. Well, basically the nature of</p> <p>4 the business is jewelry manufacturing of gold</p> <p>5 and basically gold prices skyrocketed during</p> <p>6 that time. It was an unforeseen circumstance.</p> <p>7 There is a currency crisis of the US dollar.</p> <p>8 Basically the clientele of basically</p> <p>9 independent jewelers, they are basically</p> <p>10 filing bankruptcy. So basically it was a bad</p> <p>11 period during that time to say the least and</p> <p>12 that's what happened.</p> <p>13 Q. So the company is no longer in</p> <p>14 existence?</p> <p>15 A. No, it is not dissolved. It is</p> <p>16 just suspended.</p> <p>17 Q. Suspended. After you leave</p> <p>18 Royal Gem Star or after Royal Gem Star</p> <p>19 suspends its operations, to be accurate, what</p> <p>20 is your next job?</p> <p>21 A. I'm basically a media consultant</p> <p>22 for a company called Media Mall Technologies,</p> <p>23 Inc.</p> <p>24 Q. Media Mall Technologies, Inc.</p> <p>25 What does Media Mall Technologies do?</p>
<p style="text-align: right;">11</p> <p>1 individuals overseas. You out source OEM</p> <p>2 manufacturing?</p> <p>3 A. Right.</p> <p>4 Q. Okay.</p> <p>5 A. Can you basically say that one</p> <p>6 more time basically what you just said because</p> <p>7 it may be inaccurate what you just said.</p> <p>8 Q. About what you do at Royal Gem</p> <p>9 Star?</p> <p>10 A. Yes. Well, basically what you</p> <p>11 are saying is that -- what you just said that</p> <p>12 it was founded in 2005. In legal speed</p> <p>13 basically it was incorporated in 2007.</p> <p>14 Q. Okay. But in 2005 you go to</p> <p>15 work for them, but it's officially</p> <p>16 incorporated in 2007?</p> <p>17 A. Basically there is a lot of due</p> <p>18 diligence to set everything up. It is not</p> <p>19 that simple. It wasn't that simple to</p> <p>20 basically set up manufacturing of that nature.</p> <p>21 Q. But in 2005 you start to the due</p> <p>22 diligence, then two years later you</p> <p>23 incorporate?</p> <p>24 A. Exactly.</p> <p>25 Q. And you stay there until 2008?</p>	<p style="text-align: right;">13</p> <p>1 A. They sell software called Play</p> <p>2 On.</p> <p>3 Q. What does Play On do?</p> <p>4 A. Basically what it is I can give</p> <p>5 you in layman's terms or basically technical</p> <p>6 terms. Which would you like?</p> <p>7 Q. I prefer layman's terms.</p> <p>8 A. So basically what it is, it</p> <p>9 allows you to watch things like Hulu, if you</p> <p>10 know what Hulu is. Hulu and Net Flix. Things</p> <p>11 you would watch on the web like ESPN, NHL,</p> <p>12 MLB. It allows you to watch what you would</p> <p>13 see on the web on your TV using what is called</p> <p>14 a DLNA device, such as PS3 and Xbox 360.</p> <p>15 There is a bunch of other OEM devices out</p> <p>16 there that we basically interface with. We</p> <p>17 interface with the Wii. Nintendo.</p> <p>18 Q. So it provides for -- a 30,000</p> <p>19 foot high view, it provides internet access on</p> <p>20 home games?</p> <p>21 A. No. No. Basically -- okay.</p> <p>22 You are trying to watch a video. A common</p> <p>23 person would not want to watch video on their</p> <p>24 PC for an extended period of time. Let's say</p> <p>25 hypothetically a movie you would watch on</p>

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<p style="text-align: right;">14</p> <p>1 Hulu.com. Some movies can be 30 minutes, one  2 hour, one hour 30 minute episodes or movies.  3 Whatever they may be.  4 Q. Right.  5 A. So basically it allows you to  6 watch what you would see on your PC on your TV  7 and basically it's a software that interfaces  8 the PC with the TV.  9 MR. LALLI: Through, like, Play  10 Station?  11 THE WITNESS: Through what is  12 called a DLNA device and what DLNA is, is  13 basically something similar to what I Triple E  14 is. If you know what I Triple E is. It's  15 basically a conglomerate or firm such as Sony,  16 Microsoft, Phillips, LG and a host of others  17 that came up with the idea to basically make  18 one common -- it is called universal plug and  19 play technology to do this type of streaming.  20 It is called intravideo streaming from your PC  21 to your TV.  22 Q. And you are still at Media Mall  23 Technologies today?  24 A. Yes.  25 Q. And your title is media</p>	<p style="text-align: right;">16</p> <p>1 A. No.  2 Q. Your parents?  3 A. Yes.  4 Q. You are not married?  5 A. No.  6 Q. Besides the jobs that we just  7 mentioned after you went to Johns Hopkins,  8 have you ever worked in the banking or  9 financial services industry?  10 A. No.  11 Q. How about any member of your  12 family?  13 A. No.  14 Q. What newspapers do you regularly  15 read?  16 A. What do you mean by regularly?  17 Q. Once a week. More than once a  18 week. Do you get any newspaper subscriptions  19 to the house?  20 A. No, I don't get any newspaper  21 subscriptions to my house.  22 Q. Do you purchase any newspapers  23 in the morning?  24 A. Basically sometimes the Sunday  25 Star Ledger. There are times I basically read</p>
<p style="text-align: right;">15</p> <p>1 consultant?  2 A. Well, I mean, basically it is a  3 loose term. What it is, is a start-up  4 company. We only have about ten people in the  5 company, so I do a host of different jobs that  6 take on different projects, so I don't exactly  7 have a title to give you.  8 Q. Are you one of the founders of  9 Media Mall Technologies?  10 A. No.  11 Q. Any ownership interest in the  12 company?  13 A. No.  14 Q. And where are they located?  15 A. Basically incorporated in  16 Seattle, Washington.  17 Q. Do they have a New Jersey  18 office?  19 A. No.  20 Q. You work from home?  21 A. Yes.  22 Q. And what is your date of birth?  23 A. 10/19/1982.  24 Q. And do you own the home at 173  25 Plainfield Avenue?</p>	<p style="text-align: right;">17</p> <p>1 other newspapers, but basically not on a  2 weekly period.  3 Q. What do you read?  4 A. Wall Street Journal, Financial  5 Times. Washington Post.  6 Q. Anything else?  7 A. Nothing that can come to my mind  8 right now.  9 Q. How about magazines?  10 A. I have no magazine subscriptions  11 whatsoever.  12 Q. Do you read any magazines  13 regularly?  14 A. No.  15 Q. How about websites? Got any  16 blogs that you go to regularly? Any websites  17 you visit regularly?  18 A. What do you mean by regularly?  19 Q. What is your home page when you  20 log on to your computer? What pops up?  21 A. Www.Google.com.  22 Q. Do you visit any websites on a  23 more than twice a week basis?  24 MR. LALLI: For any purpose or  25 for news?</p>

5 (Pages 14 to 17)

<p style="text-align: right;">18</p> <p>1 Q. For news.</p> <p>2 A. Well, when you ask me this</p> <p>3 question, it is kind of hard to come up with</p> <p>4 something just off the top of my head.</p> <p>5 Q. So you don't know if you go</p> <p>6 to --</p> <p>7 A. Well, you are asking basically</p> <p>8 do I go to a news site more than twice a week?</p> <p>9 Q. Here is the question. Let's</p> <p>10 give a hypothetical.</p> <p>11 A. Okay.</p> <p>12 Q. There is a news event that</p> <p>13 happens today and you want to find out about</p> <p>14 it and you go to your computer. What website</p> <p>15 would you go to?</p> <p>16 A. The BBC.</p> <p>17 Q. Any others that you visit?</p> <p>18 A. Not that I can think of.</p> <p>19 Q. Do you belong to any consumer</p> <p>20 organizations?</p> <p>21 A. What does that mean?</p> <p>22 Q. An organization that, you know,</p> <p>23 is incorporated or its purpose is to advance</p> <p>24 consumer rights.</p> <p>25 A. What does that mean?</p>	<p style="text-align: right;">20</p> <p>1 thing. Basically it is like a networking.</p> <p>2 Q. Now, one of the primary, I</p> <p>3 guess, issues in this case deals with gift</p> <p>4 cards. Have you ever bought a gift card?</p> <p>5 A. Yes.</p> <p>6 Q. Why don't we talk about the gift</p> <p>7 cards you purchased. Which ones have you</p> <p>8 purchased?</p> <p>9 A. From where?</p> <p>10 Q. A gift card.</p> <p>11 A. I've purchased gift cards from</p> <p>12 Wal-Mart. I'm not 100 percent sure if I</p> <p>13 bought the TD or I should say Commerce Bank</p> <p>14 gift card or if it was handed -- the ones in</p> <p>15 question that were given to me, were given to</p> <p>16 me from my father. Any other ones there's</p> <p>17 basically like a dozen or so cards involved.</p> <p>18 I really cannot recall who bought them, when</p> <p>19 they were bought or anything like that and</p> <p>20 there's no way for me to look that up.</p> <p>21 Q. All right. Let's try to break</p> <p>22 that down. You've bought gift cards from</p> <p>23 Wal-Mart, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Let's focus just on that. When</p>
<p style="text-align: right;">19</p> <p>1 Q. Advocate for consumer rights.</p> <p>2 A. No.</p> <p>3 Q. Are you a member of any</p> <p>4 organizations?</p> <p>5 A. Such as?</p> <p>6 Q. Any.</p> <p>7 A. Now. Right now?</p> <p>8 Q. Yes.</p> <p>9 A. Not that I can think of.</p> <p>10 Q. How about ever?</p> <p>11 A. I was a boy scout. That's the</p> <p>12 first thing I can think of. Let's see. It's</p> <p>13 kind of a vague question. I mean, membership</p> <p>14 could mean anything. Like, you could have a</p> <p>15 video card membership. You could have a</p> <p>16 Triple A membership.</p> <p>17 Q. I'm talking about a trade</p> <p>18 association. Your local Lion's group. A</p> <p>19 chamber of commerce. Anything like that?</p> <p>20 A. No. Oh, I can think of one now.</p> <p>21 There is one called Net IP. Network of Indian</p> <p>22 Professionals.</p> <p>23 Q. How long have you been a member</p> <p>24 of that?</p> <p>25 A. It's not a membership type of</p>	<p style="text-align: right;">21</p> <p>1 did you buy the gift cards from Wal-Mart?</p> <p>2 A. Let's see. I would have to say</p> <p>3 in 2009. I mean, maybe even earlier this</p> <p>4 year. I'm not exactly sure.</p> <p>5 Q. How many gift cards did you buy</p> <p>6 from Wal-Mart?</p> <p>7 A. I would like to clarify this</p> <p>8 answer because what it was is basically a</p> <p>9 promotion they were giving. If you buy</p> <p>10 something they would give you a gift card, so</p> <p>11 technically I don't know if exactly it implies</p> <p>12 I bought the gift card or basically it's part</p> <p>13 of the promotion.</p> <p>14 Q. Okay.</p> <p>15 A. And I can break down exactly --</p> <p>16 Q. Can you walk me through how you</p> <p>17 get a gift card from Wal-Mart?</p> <p>18 A. So basically they had a</p> <p>19 promotion where basically you buy an Xbox 360</p> <p>20 and I think I mentioned that before what that</p> <p>21 was, and basically you buy it for \$200 and</p> <p>22 they give you a \$100 gift card as I gratuity</p> <p>23 with the Xbox 360 purchase. It's a promotion</p> <p>24 that was either run from them or Microsoft.</p> <p>25 I'm not exactly sure, but I have these gift</p>

6 (Pages 18 to 21)



<p style="text-align: right;">22</p> <p>1 cards.</p> <p>2 Q. You have more than one?</p> <p>3 A. Yes.</p> <p>4 Q. You got a gift card with each</p> <p>5 purchase of this XBox?</p> <p>6 A. Yes.</p> <p>7 Q. How many gift cards do you have</p> <p>8 from Wal-Mart?</p> <p>9 A. I'm not exactly sure. Just like</p> <p>10 maybe two.</p> <p>11 Q. Do you know the denominations?</p> <p>12 A. \$100.</p> <p>13 Q. Do they come in any type of</p> <p>14 packaging?</p> <p>15 A. No.</p> <p>16 Q. How do they come? Just a gift</p> <p>17 card that is loose?</p> <p>18 A. They come as is with a gift</p> <p>19 card.</p> <p>20 Q. You say "as is." Just a gift</p> <p>21 card. Not on a piece of cardboard. Not in a</p> <p>22 box. Not in an envelope?</p> <p>23 A. No.</p> <p>24 Q. Who gives you the gift card?</p> <p>25 A. The cashier.</p>	<p style="text-align: right;">24</p> <p>1 up, I double checked it whether it expires or</p> <p>2 not.</p> <p>3 Q. How did you do that?</p> <p>4 A. I called them up.</p> <p>5 Q. Where did you get the number to</p> <p>6 call them up?</p> <p>7 A. 1-800-Wal-Mart.</p> <p>8 Q. Was it a number on the back of</p> <p>9 the gift card?</p> <p>10 A. I don't recall, but I'm sure</p> <p>11 it's 1-800-Wal-Mart.</p> <p>12 Q. Do you have the gift cards with</p> <p>13 you in your wallet now?</p> <p>14 A. The Wal-Mart one?</p> <p>15 Q. Yes.</p> <p>16 A. I don't think so. No.</p> <p>17 Q. Do you recall what the back of</p> <p>18 the Wal-Mart gift cards say?</p> <p>19 A. No, I do not recall.</p> <p>20 Q. So you call up 1-800-Wal-Mart</p> <p>21 and you find out that the card never expires.</p> <p>22 Do you ask any other questions about it?</p> <p>23 A. Not really. Not that I recall,</p> <p>24 no.</p> <p>25 Q. You don't ask if there are any</p>
<p style="text-align: right;">23</p> <p>1 Q. Does the cashier tell you</p> <p>2 anything at the time she gives you the gift</p> <p>3 card?</p> <p>4 A. No.</p> <p>5 Q. And did you purchase the XBox</p> <p>6 for the purpose of getting the gift card?</p> <p>7 A. Technically, yes. I mean,</p> <p>8 technically because it's a good deal to get</p> <p>9 XBox if you factor it in for a \$100. I mean,</p> <p>10 you cannot beat that kind of deal, so a lot of</p> <p>11 people jump on it. There was a line outside,</p> <p>12 like, for 200 people just for 20 XBox's.</p> <p>13 Q. Your intent was to buy the XBox</p> <p>14 at the cheapest price. Not to walk away with</p> <p>15 the gift card, correct?</p> <p>16 A. Basically, yes.</p> <p>17 Q. Have you used the gift card?</p> <p>18 A. Yes.</p> <p>19 Q. And is the gift card for any</p> <p>20 store or just for Wal-Mart?</p> <p>21 A. No, it's just for Wal-Mart and</p> <p>22 Wal-Mart.com and it never expires.</p> <p>23 Q. How do you know it never</p> <p>24 expires?</p> <p>25 A. Because after this matter came</p>	<p style="text-align: right;">25</p> <p>1 fees associated with it?</p> <p>2 A. I do not recall.</p> <p>3 Q. And you call Wal-Mart after this</p> <p>4 whole issue arises with this litigation?</p> <p>5 A. Yes.</p> <p>6 Q. And when do you make that call</p> <p>7 to Wal-Mart?</p> <p>8 A. I can't give you an exact date.</p> <p>9 Q. How about an estimate?</p> <p>10 A. Some time this year. I really</p> <p>11 don't know.</p> <p>12 Q. So you have the Wal-Mart gift</p> <p>13 cards. Now, you also mentioned there is a</p> <p>14 number of other gift cards that you don't know</p> <p>15 if you bought or your father bought, correct?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Okay. Tell me about those gift</p> <p>18 cards.</p> <p>19 A. Like what?</p> <p>20 Q. I don't know what the number of</p> <p>21 other gift cards you are talking about.</p> <p>22 A. You are talking about the</p> <p>23 Commerce Bank gift card?</p> <p>24 Q. If that is what they are. You</p> <p>25 said there are about 12 other cards.</p>

7 (Pages 22 to 25)



<p style="text-align: right;">26</p> <p>1 A. That is what I was referring to, 2 Commerce Bank. 3 Q. We have about 12 other Commerce 4 Bank cards. 5 A. I don't know. What it is, is 6 basically you would have to -- since this 7 matter is in litigation, I was hoping that, 8 you know, either defense counsel or counsel 9 would furnish what the gift cards were because 10 I didn't want to go into the details with TD 11 Bank directly, so basically there are, from my 12 understanding, more than a dozen cards 13 involved in this, and since this was such a 14 long period ago, it's kind of hard to remember 15 each denomination of them. I mean, it's 16 probably hard to remember when you give 17 somebody a gift card and it's kind of 18 embarrassing to ask them, oh, did I give you a 19 gift card for this amount? I mean, so I 20 didn't go through that step of basically doing 21 that type of due diligence, just to clarify. 22 Q. You said just from your 23 understanding there are about 12 gift cards. 24 How did you gain your understanding that there 25 are 12 gift cards?</p>	<p style="text-align: right;">28</p> <p>1 that's why that idea came up. 2 Q. Before you or your father goes 3 to Commerce Bank, did you investigate any 4 alternatives to those gift cards? 5 A. As in? 6 Q. Other gift cards. 7 A. Not really. 8 Q. What made you choose Commerce 9 Bank? 10 A. That's a good question. At the 11 time we had a good relationship with Commerce 12 Bank. It was convenient to do so. It was 13 open late. 14 MR. LALLI: Did you mean -- I 15 want to clear it up. That's all. What made 16 you choose Commerce Bank to buy the gift cards 17 from or what made you choose Commerce Bank 18 to -- 19 Q. What made you choose Commerce 20 Bank for the gift cards? 21 A. Well, I mean, like I said, at 22 the time it was convenient to do so because 23 their open late and it's easy to go to the 24 branch and just buy a card. 25 Q. You said open weight?</p>
<p style="text-align: right;">27</p> <p>1 A. From my father. He has a good 2 memory. 3 Q. What did he tell you? 4 A. What I just told you. 5 Q. That there's 12 gift cards? 6 A. There's a number of gift cards 7 in that type of amount. I'm not exactly sure 8 how many there are. 9 Q. Do you know the denominations of 10 the gift cards? 11 A. I don't recall, no. 12 Q. And do you know who purchased 13 these gift cards? 14 A. Like, as I said, it's probably 15 my father. Could be me. Basically how the TD 16 Bank or I should say Commerce Bank system 17 worked at the time is that profiles are 18 linked. Our profiles were linked, so it's 19 intermingled in that type of sense. 20 Q. Why did you purchase gift cards 21 from Commerce Bank? 22 A. To give away. To give to 23 friends basically. It's more -- how can I 24 say? Classy to give a gift card, I would 25 think, than to just give straight cash, so</p>	<p style="text-align: right;">29</p> <p>1 A. No. 2 MR. LALLI: Open late. 3 A. Sorry. 4 Q. What branch did you buy these 5 at? 6 A. I believe they were bought in 7 the Edison, New Jersey branch on Route 27. I 8 don't know the exact address of it. It's 9 basically a landmark on Route 27. And like I 10 said, they could be bought at other locations. 11 That factors into the convenience aspect. 12 When you asked me what made you buy a TD Bank 13 gift card, that's basically the whole aspect 14 of it. You can go to another branch and buy a 15 gift card if you have a TD Bank account number 16 or I should say Commerce Bank account number. 17 Q. Do you know the period of time 18 when these gift cards were purchased? 19 A. I believe, like, in 2007. 20 Q. And do you have any idea, 21 sitting here today, who these gift cards were 22 given to? 23 A. Like I mentioned before, I could 24 basically dig up the information, but I would 25 have to basically ask people if I give them a</p>

8 (Pages 26 to 29)

<p style="text-align: right;">30</p> <p>1 gift card and I just didn't want to do so  2 because it's embarrassing to do so and for  3 both me to do to so and for them, so I didn't  4 go through that process of doing so yet, but I  5 mean, at trial I would be more than happy to  6 -- basically if that is a pressing issue, I  7 would be happy to basically dig through that.  8 Q. Well, it is a pressing issue.  9 It is a class action, so why don't we try to  10 find out who you gave these gift cards to. Is  11 there a list of people you usually give gift  12 cards to?  13 A. No.  14 Q. How would you go about  15 determining who received these gift cards?  16 A. I would basically give them a  17 phone call. I really don't know how I would  18 even venture to think about asking people if I  19 gave you a gift card or not. Some people I  20 don't even talk to anymore. Some people have  21 moved, like, to other parts of the country.  22 It's really hard to get in touch with people  23 like that. It's such a long period ago.  24 Q. Do you know if these people  25 spent the money on the gift cards?</p>	<p style="text-align: right;">32</p> <p>1 that detail.  2 Q. You tried to buy a gift card  3 where? At Commerce Bank?  4 A. Yes.  5 Q. When did you do that?  6 A. I believe 2007.  7 Q. Tell me about that. You walk  8 into the store. Take it from there. Describe  9 what happens.  10 A. They say you need an account and  11 basically I don't believe I even had an  12 account at that time over there that I had,  13 like, a memory of my account number, so I had  14 to basically go back home and just, you know,  15 I was really busy at the time, so I had to go  16 back home and just not buy the card that day.  17 Q. Did you go back another day and  18 buy the card?  19 A. I don't even remember, to be  20 honest with you.  21 Q. But sitting here today, you have  22 no idea whether or not any of the cards, the  23 12 cards -- approximately 12 cards were  24 charged any fees, correct?  25 A. Well, okay. So were you given</p>
<p style="text-align: right;">31</p> <p>1 A. I have no idea.  2 Q. Do you know if these people were  3 charged fees?  4 A. Have no idea. This is something  5 that basically Commerce Bank, TD Bank would  6 know this because it's handled by them.  7 Q. How would Commerce Bank or TD  8 Bank know this if you don't know who you gave  9 them to? How are Commerce Bank or TD Bank  10 supposed to know who you gave them to?  11 A. Well, basically when you buy a  12 gift card, you have to have an account with  13 Commerce Bank. You cannot buy the card  14 without an account. So basically when you  15 purchase it, they log your account number and  16 under your account number they basically put  17 it on your profile that you bought this card,  18 so if those cards needed to be dug up, the  19 actual numbers in question, they could be dug  20 up.  21 Q. How do you know that  22 information?  23 A. I just know that information  24 because I tried to buy a gift card without  25 using my account number. I just remembered</p>	<p style="text-align: right;">33</p> <p>1 the actual two cards that I have possession  2 of?  3 Q. We are going to go into those in  4 a second.  5 MR. LALLI: Does that question  6 include those two cards?  7 A. Does that question include those  8 two cards?  9 Q. It includes those two cards if  10 the 12 cards you are talking about includes  11 those two cards.  12 A. I would say it would include  13 those two cards.  14 Q. Sitting here today, do you have  15 any knowledge as to whether or not fees were  16 charged to any of the 12 cards?  17 A. Of course I do.  18 Q. What knowledge do you have?  19 A. One of the cards was a \$25 card.  20 It was charged -- the full card was depleted  21 by fees.  22 Q. The full card was depleted by  23 fees?  24 A. One hundred percent of the card  25 was depleted by fees. There was another card</p>

9 (Pages 30 to 33)

<p style="text-align: right;">34</p> <p>1 that I have possession of that was given to  2 me. Sixty percent of the value of the card is  3 depleted with fees.  4 Q. Let's talk about the full card  5 that was depleted by fees. If it was a \$25  6 card and it was a full card depleted by fees,  7 do you know where you got the card from?  8 A. My father.  9 Q. Do you know when he gave it to  10 you?  11 A. The one --  12 Q. Talking about the one fully  13 depleted by fees.  14 A. I was given that for my  15 birthday.  16 Q. In what year?  17 A. 2009.  18 Q. In 10/19/09? That is when you  19 were given it, right?  20 A. Yes.  21 Q. And today it is May 19, 2010 and  22 you are telling me it's completely depleted by  23 fees, that card?  24 A. Yes, that is what I was told by  25 the representative when I called the back of</p>	<p style="text-align: right;">36</p> <p>1 it.  2 Q. There's no denomination left of  3 the \$25, correct? That's what I meant.  4 A. There was no money on the card  5 at all.  6 Q. Now, let's move to there is a  7 card you said that 60 percent of the fees were  8 depleted.  9 A. Right.  10 Q. How do you know there is 60  11 percent of the fees are depleted on that card?  12 A. Well, because after I called  13 regarding the first card I mentioned, I  14 checked about this card and I've noticed that  15 the fees were depleted on that one, too, and I  16 was assuming that I could use that card and  17 the fees basically were assessed on those  18 cards.  19 Q. Okay. And the card that was 60  20 percent depleted, is that a \$25 denomination  21 card?  22 A. I believe so.  23 Q. Who gave you that card?  24 A. I believe my father.  25 Q. And when did your father give</p>
<p style="text-align: right;">35</p> <p>1 the card, the number on the back of the card,  2 the toll free number and that's what I was  3 told.  4 Q. So the one card is \$25. Full  5 card was depleted by fees given to you in  6 October 19, 2009 and actually to the day,  7 seven months later, it is completely depleted  8 by fees. That's your testimony?  9 A. It was depleted in October of  10 2009 when -- when I tried to use the card in  11 October 2009, the card was depleted at that  12 time.  13 Q. Okay. So it was depleted at the  14 same time your father gave it to you on your  15 birthday?  16 A. That's what I found out  17 basically.  18 Q. Do you know when your father  19 purchased that card?  20 A. I have no idea.  21 Q. So before you even get to use  22 the card, there's no fees on it?  23 A. Exactly.  24 MR. LALLI: Can you clear that  25 question up? You said there was no fees on</p>	<p style="text-align: right;">37</p> <p>1 you that card?  2 A. I don't even recall, to be  3 honest with you. That one it was a while ago.  4 It was in maybe -- I would have to basically  5 look into that one when it was given to me. I  6 really don't know when it was given to me.  7 Q. How would you look into it?  8 A. Maybe I would ask him. Maybe I  9 would press him on finding out how -- when do  10 you think -- when he would have given it to  11 me. Look back in the memories of that. I  12 don't know how.  13 Q. Your father has a good memory  14 you testified to earlier.  15 A. He is getting older now. I  16 don't know how great his memory is now, but he  17 has a great memory to -- some things he has a  18 good memory of, yes.  19 Q. So you have knowledge that at  20 least two cards had fees charged and these are  21 two cards that were given to you by your  22 father, correct?  23 A. Yes.  24 Q. Did the card, when your father  25 gave it to you -- let's start with the fully</p>

10 (Pages 34 to 37)

<p style="text-align: right;">38</p> <p>1 depleted card. Did that come in any type of 2 package? 3 A. I don't remember. 4 Q. Did it come with any terms and 5 conditions? 6 A. I don't remember. 7 Q. How about the card that was 60 8 percent depleted? Did that come in any type 9 of packaging? 10 A. I don't remember. 11 Q. And did it come with any terms 12 and conditions? 13 A. I don't remember. 14 Q. But the two cards that are here 15 are the two cards that you produced in 16 discovery? 17 A. Yes. Exactly. 18 Q. When your father gives you the 19 fully depleted card in October of 2009, do you 20 read the card? 21 A. What do you mean by read? 22 Q. Do you read the front and the 23 back of the card? 24 A. I read -- I mean, there is 25 basically graphics on the card, so there is</p>	<p style="text-align: right;">40</p> <p>1 the two cards that you discussed that had 2 depleted funds, correct? 3 A. If the number is the same, yes. 4 Q. Do you have the cards on you 5 that have depleted funds on them? 6 A. I do. 7 Q. Can we just check to see if one 8 of those -- can we confirm? 9 MR. LALLI: I can represent that 10 this is the card -- this is a copy of one of 11 the cards that you gave me. 12 A. Let me see where I would have 13 that. 14 (At which time, an 15 off-the-record discussion took place.) 16 Q. Mr. Bulsara, now that you've 17 taken your card out of your wallet and you 18 compared it, Bulsara-1, is that one of the two 19 cards that you just testified to that had 20 depleted funds on it? 21 A. Yes. 22 Q. But you don't know whether it's 23 the one that was fully depleted or if it was 24 the one that was 60 percent depleted? 25 A. I believe, to the best of my</p>
<p style="text-align: right;">39</p> <p>1 not much to read. You take basically the 2 insignia of the card, the Visa logo, the debit 3 card on the back. It says gift card, so I 4 didn't really -- I don't know. 5 Q. You don't recall reading it, do 6 you? 7 A. What do you mean by that? 8 Q. If there's -- you know what? 9 The best way to do this is to go through the 10 cards themselves. 11 (At which time, a photocopy of 12 gift card was marked Bulsara-1 for 13 identification.) 14 Q. I'm going to show you what has 15 been marked as Bulsara-1 and I'll represent to 16 you that this is a photocopy that was produced 17 by your counsel as part of answers or requests 18 for production of documents, and earlier you 19 mentioned there were two cards in question. 20 Have you ever seen this document before? 21 A. I have seen this document, but I 22 do not know which card you are referring to 23 because I didn't memorize the card number 24 itself, so yes. 25 Q. That's fair. But it's one of</p>	<p style="text-align: right;">41</p> <p>1 knowledge, because I do not remember -- 2 memorize the actual 16 digit number, I believe 3 that this is the one with the 100 percent 4 depleted -- 100 percent assessed fees. 5 Q. Now, when we talked earlier you 6 said you don't know what I mean by did you 7 read the card. Can you look at Bulsara-1 and 8 Bulsara-1 has the front of the card and the 9 back of the card photocopied, correct? 10 A. Yes. 11 Q. We are going to look at the back 12 of the card. Would you agree with me that 13 there is writing on the back of the card? 14 A. Yes. 15 Q. Did you ever read that writing 16 at the time the card was given to you? 17 A. At the time, no. 18 Q. Have you ever read the back of 19 that card? 20 A. Yes. 21 Q. Does the back of that card 22 disclose that monthly service fees will be 23 charged to this card if they are not used 24 within a certain period of time? 25 A. Yes.</p>

11 (Pages 38 to 41)

<p style="text-align: right;">42</p> <p>1 Q. And looking at it today, what is 2 your understanding of how much will be charged 3 to this card if it's not used during a certain 4 period of time? 5 A. It says a monthly service fee of 6 \$2.50 will be deducted from your balance 7 starting on the first day of the month 8 immediately following the 365th day after the 9 date your card was purchased, but the dilemma 10 in this situation is I do not know when this 11 card was purchased. 12 Q. But in this situation it really 13 doesn't matter when the card was purchased 14 because at the time the card was given to you 15 by your father, the full amount of cash has 16 been depleted, correct? 17 A. Yes, but can you repeat the 18 question one more time? 19 (At which time, the last 20 question was read back.) 21 A. Well, it does matter. I mean, 22 you know, when it was purchased, of course, 23 because if it was purchased -- if I had known 24 when it was purchased, then this -- the 25 verbiage would be very apparent to me, but if,</p>	<p style="text-align: right;">44</p> <p>1 card, there's no money on it, correct? 2 A. What do you mean by wouldn't 3 make a difference? 4 Q. It wouldn't make a difference to 5 your situation. 6 A. What situation? 7 Q. You have a card that has no 8 denomination on it that's been eaten up by 9 fees. 10 A. Right. 11 Q. And you said, yes, but I didn't 12 know the issue date. It's of no consequence 13 to your situation because regardless of when 14 the issue date was, you still have a card with 15 no fees and you couldn't change that on the 16 date it was given to you. 17 A. Of course it would have changed 18 things because if I had known when it was 19 purchased, then basically I would have -- I 20 could take and account these fees and I would 21 have acted accordingly and probably tried to 22 avoid these fees. 23 Q. Okay. According to your 24 deposition testimony you said on October 19th 25 the card had no more fees on it, correct?</p>
<p style="text-align: right;">43</p> <p>1 of course, if one were not to know when it was 2 purchased, it would be hard to know when those 3 fees would be assessed. 4 Q. Assuming you knew it was 5 purchased on the day your father gave it to 6 you, what would you have done that would have 7 changed the situation you are in right now? 8 A. I wouldn't -- I mean, it's kind 9 of hard to predict. Maybe I would have used 10 the card right away. Maybe I would have 11 waited. I have no idea what I would have 12 done. 13 Q. The card is given to you and it 14 has no money on it because the fees had been 15 depleted, correct? 16 A. Right. Sorry. Repeat the 17 question. 18 Q. The date your father gives you 19 the card on your birthday, it has no money on 20 it because all of the money has been eaten up 21 from fees, correct? 22 A. Yes, but I did not know that. 23 Q. Right. But even if you knew the 24 issue date, it wouldn't have changed the fact 25 that at the time your father gave you the</p>	<p style="text-align: right;">45</p> <p>1 A. No, I didn't say no more fees. 2 I said there is no value on it. 3 Q. No value on it. Okay. 4 A. And I found out after the fact 5 when I tried to use the card. 6 Q. Right. But the time your father 7 gave it to you, the fees are all incurred 8 while the card is in your father's possession, 9 correct? 10 A. I believe so. 11 Q. So no fees are incurred while 12 it's in your possession. That is what I'm 13 trying to get at. 14 A. I would say, yes. 15 Q. Let's go to the second card. 16 (At which time, a photocopy of a 17 gift card was marked Bulsara-2 for 18 identification.) 19 Q. Mr. Bulsara, I'm going to show 20 you what has been marked as Bulsara-2. Can 21 you take a look at it? 22 A. Yes. 23 Q. Have you ever seen that before? 24 A. Yes. 25 Q. Is that a copy of the front and</p>

12 (Pages 42 to 45)



<p style="text-align: right;">46</p> <p>1 back of one of the gift cards that you've 2 testified to? 3 A. Yes. 4 Q. And is it -- 5 A. Back up one second. Let me 6 verify something. 7 Q. Okay. 8 A. Yes. 9 Q. Is it your understanding that 10 this is the card Bulsara-2 that had 60 percent 11 -- approximately 60 percent -- 12 A. Approximately. I didn't 13 calculate the exact arithmetic behind it. 14 Q. Approximately 60 percent of the 15 value depleted? 16 A. Yes. 17 Q. On the back of this card it has 18 the same writing as the back of Bulsara-1, 19 correct? Same disclosures? 20 A. Yes. 21 Q. And you never read the back of 22 Bulsara-2? 23 A. No. I did not after -- until 24 this incident happened regarding Bulsara-1. 25 Q. Let's start with Bulsara-1. You</p>	<p style="text-align: right;">48</p> <p>1 my birthday. I would like to get the fees 2 back. Is there something I can do and, you 3 know, she said, no. And basically so then I 4 had to talk to another representative and by 5 that time basically I was basically looking 6 into seeing what I can do regarding this gift 7 card to get the value back, and basically to 8 sum up, I was escalated to a supervisor, which 9 basically told me to, quote unquote, serve 10 process on Commerce, TD Bank. 11 Q. That is the word they used? 12 A. Yes, and they told me that they 13 are in -- Fort Lauderdale is card holder 14 services, yes. 15 Q. That is what the supervisor told 16 you? 17 A. Yes. 18 Q. Did you take notes of this 19 conversation? 20 A. Well, I asked for her ID number 21 and she told me that this conversation is 22 being basically -- she -- to basically sum it 23 up in candid and layman's, she basically dared 24 me to do something about it in a legal aspect. 25 Q. Did you take notes of the</p>
<p style="text-align: right;">47</p> <p>1 get Bulsara-1 on your birthday. What do you 2 do with the card? 3 A. From what I recall, I held on to 4 the card for approximately a number of days, 5 like, basically a few days. I don't know 6 exactly how many days, but then I went to CVS, 7 from what I recall, and I tried to use the 8 card there, and it came up as declined and it 9 was an embarrassing situation, so I mean, I 10 called up the back of the card, the number on 11 the back of the card, and I found out 12 basically it was assessed the whole -- the 13 fees were assessed on the card that depleted 14 the whole card's value. 15 Q. Do you recall anything else from 16 the conversation when you call up the number 17 on the back of Bulsara-1? 18 A. Yes. 19 Q. Tell me exactly the sum and 20 substance of what happened. 21 A. Okay. Well, I talked to the 22 representative and, you know, it was a 23 pleasant conversation at first, but I just 24 wanted to somehow -- I was explaining my 25 plight where basically it was given to me on</p>	<p style="text-align: right;">49</p> <p>1 conversation? 2 A. No, it didn't come to mind to 3 take notes of the conversation. 4 Q. But this all happened within a 5 few days of your father giving you the card? 6 A. Approximately. 7 Q. Do you have any other 8 conversations with the customer service 9 representative or Commerce or TD Bank with 10 respect to Bulsara-1 after that first 11 conversation? 12 A. Well, if it got to the stage 13 where it was escalated to someone in charge 14 and they told me to basically file a lawsuit, 15 there's not much I can do about it, so I 16 didn't call back. 17 Q. So you have one phone call and 18 on this phone call -- 19 A. No, I did not have one phone 20 call. It was -- there were multiple phone 21 calls involved in this. 22 Q. Do all the phone calls occur on 23 the same day? 24 A. I think so. 25 Q. And --</p>

13 (Pages 46 to 49)



<p style="text-align: right;">50</p> <p>1 A. It could be a period of two 2 days. It could be a period of one day. 3 Q. Fine. That's fair. And are you 4 calling -- you have the initial phone call. 5 You called the 1-800 number. 6 A. No, sir, it's not a 1-800 7 number. It's a 1-866 number. 8 Q. Okay. 9 A. Toll free number. 10 Q. You call a toll free number. Do 11 you continue to call or does someone from TD 12 or Commerce call you back? 13 A. No. I never got a call back. 14 Q. So you keep calling and speaking 15 to different people? 16 A. When you mean keep calling, it 17 makes it seem like there are several calls. 18 There were not several calls. If I had to 19 estimate -- if I had to estimate, maybe there 20 were two or three calls done. 21 Q. Two or three calls. And the 22 last call is a call with a supervisor. Is 23 that accurate? 24 A. Yes. 25 Q. And is that the call where the</p>	<p style="text-align: right;">52</p> <p>1 user has to suffer the fees when they have no 2 paperwork behind it. It's not explained 3 correctly. Basically that is the nature of 4 it. That's what basically what I ran through 5 with her because, I mean, obviously she wasn't 6 a lawyer, so it does not make sense to 7 basically speak in those type of terms, but 8 that's basically what the conversation was 9 about. 10 Q. Okay. And the moral dilemma. 11 What is the moral dilemma? 12 A. It was given to me on my 13 birthday. It's kind of like a tough thing to 14 go through. I really needed money at the 15 time, so I basically tried to use the card at 16 CVS. 17 Q. But the disclosure on the back 18 of that card does disclose the \$2.50 fee per 19 month, correct? 20 A. It does not make it so clear 21 about the nature of how the fees would be 22 assessed. 23 Q. How would you make it clear? 24 A. Maybe I would -- 25 MR. LALLI: I'm going to object,</p>
<p style="text-align: right;">51</p> <p>1 supervisor, quote, dares you to take action? 2 A. Yes. And I mean, just to 3 basically add something just to clarify with 4 you for all due respect basically, I mean, I 5 stipulated to her that basically it's not only 6 there is a legal dilemma in this. There is a 7 moral dilemma in this, so basically that's how 8 it got to that level, to an escalated level in 9 the first place. 10 Q. Let's talk about the legal 11 dilemma. What is the legal dilemma? 12 A. Basically I'm not a lawyer and I 13 can't really quote basically the statutes 14 involved with this, but there is a legal 15 dilemma here. 16 Q. I'm trying to figure out what 17 the legal dilemma is in your terms. Please 18 tell me what you think a legal dilemma is. 19 A. Basically, I mean, it's not very 20 apparent to an end user that these fees being 21 assessed the way these fees are being 22 assessed, how they are assessed to -- I mean, 23 I can't really -- I can't give it to you in 24 legal terms. Basically if I had to tell you 25 in common terms it wasn't right that the end</p>	<p style="text-align: right;">53</p> <p>1 but you can answer the question. 2 A. I'm not prepared to answer in a 3 legal means right now. I would be happy to do 4 so at trial. 5 MR. LALLI: I don't think he is 6 asking you anything legal. He's asking you 7 personally how would you make it? Was that 8 what the question is? How would it be clear 9 for you? 10 Q. Correct. 11 A. Okay. Well, basically it would 12 be more clear if it was somehow stipulated 13 that this card was bought at this time and 14 maybe you would be assessed a fee after a 15 certain amount of time maybe, but it's kind of 16 hard to basically be on the spot and come up 17 with an answer for you like that in terms of 18 what can be a remedy to that. 19 Q. I'm not asking for a remedy. 20 You said it was unclear. 21 A. No. What I mean by remedy is 22 that it's kind of hard to be on the spot and 23 come up with some sort of terminology or 24 verbiage to explain to an end user what is 25 implied by this to them. It's kind of hard to</p>

14 (Pages 50 to 53)

<p style="text-align: right;">54</p> <p>1 do so, so I can't really basically come up 2 with some kind of verbiage for you like that. 3 Q. The back of Bulsara-1 says a 4 monthly service fee of \$2.50 will be deducted 5 from your balance starting on the first day of 6 the month immediately following the 365th day 7 after the card was purchased; is that correct? 8 A. When is the 365th day? 9 Q. Is that correct? 10 A. What was the question? 11 Q. Does the back of card say a 12 monthly service fee of \$2.50 will be deducted 13 from your balance starting on the first day of 14 the month immediately following the 365th day 15 after the date your card was purchased? 16 A. It does say that. 17 Q. And your father, when he 18 purchased the card, he knows the date, doesn't 19 he? 20 A. I don't think so. I don't know. 21 I really don't know. 22 Q. You have no idea whether your 23 father can read a calendar. Is that your 24 testimony? 25 A. Is that an insult?</p>	<p style="text-align: right;">56</p> <p>1 you mean by bank? 2 Q. Commerce Bank, the customer 3 service people. 4 A. What do you mean by that? Do 5 you mean the number on the back of this card? 6 Q. Any people at the bank. 7 A. Well, I would have to say that 8 with my prior testimony, the number on the 9 back of card is the same number that was also 10 -- basically that's the number that it would 11 start with. 12 Q. But did you have separate -- we 13 talked about conversations with respect to 14 Bulsara-1. There was about two or three. Did 15 you have any separate conversations with 16 respect to Bulsara-2? 17 A. I do not recall. It was a while 18 ago. I would have to basically -- I would 19 have to really think about it. Basically look 20 through my records, my phone records. 21 Q. Your phone records. Are there 22 any other records that would show? 23 A. I mean, I don't even know if I 24 would have my phone records because it was 25 such a while ago. I don't even know how long</p>
<p style="text-align: right;">55</p> <p>1 Q. No, I'm asking a question. 2 A. How could -- what does a 3 calendar have to do with this? Where is there 4 a calendar on the card? 5 Q. On the day your father walks in 6 and he purchases the card, he knows on that 7 day that a purchase occurred, doesn't he? 8 A. When? 9 Q. On the day he purchases the 10 card. 11 MR. LALLI: I think you're 12 misunderstanding. The question was, on the 13 day he purchased the card, he knows that's 14 what day -- he knows whatever day that is. He 15 didn't ask you does your dad remember when he 16 purchased the card, right? 17 Q. I'm just asking when your father 18 purchases the card, he knows the day that 19 transaction occurred? 20 A. When the day he purchases it, 21 yes. 22 Q. Did you have any conversations 23 with the bank with respect to Bulsara-2, the 24 card in Bulsara-2? 25 A. What do you mean bank? What do</p>	<p style="text-align: right;">57</p> <p>1 the phone carrier would keep those type of 2 records, but if I needed to do so and I was 3 available, I'm sure maybe I can dig up when 4 the phone calls were made and how long they 5 were. 6 Q. But Mr. Bulsara, I'm not trying 7 to trick you here. What I'm trying to say is, 8 did you talk about both Bulsara-1 and 9 Bulsara-2 during your conversations or were 10 there separate times? 11 A. Okay. That is a good question. 12 I don't think this card was mentioned. I only 13 believe that this card was mentioned. 14 MR. LALLI: When you say this 15 card, you pointed to Bulsara-1? 16 THE WITNESS: Yes. Sorry. 17 Q. Excuse me. For the record, let 18 me get this straight. You make phone calls 19 with respect to Bulsara-1 to the customer 20 service? 21 A. Yes. Just to make it clear, 22 Bulsara-1 is the one given to me on my 23 birthday that was the -- that's when the call 24 originated. That's the scope of this matter 25 with these phone calls.</p>

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<p style="text-align: right;">58</p> <p>1 Q. You don't have any phone calls 2 with respect to Bulsara-2 that you know of? 3 A. Not that I recall, no. 4 Q. Thank you. Did you ever talk to 5 your father about Bulsara-1? 6 A. Oh, yes. 7 Q. Tell me what you talked to your 8 father about. 9 A. Well, I told him the card has no 10 value and he said, why not? Why not? Try to 11 basically talk to them about it and that's 12 what I tried to do. 13 Q. Any other conversations? 14 A. Such as? 15 Q. About Bulsara-1. 16 A. Like such as? 17 Q. Any conversations. 18 A. That's kind of a broad question. 19 Like, what do you mean by this card and 20 talking about this? 21 Q. Have you ever talked to your 22 father about the card that was given to you on 23 your birthday that was fully depleted in 24 value? 25 A. I did. I talked to him about</p>	<p style="text-align: right;">60</p> <p>1 get the fees reversed in this case because -- 2 and I would like to add to that notion because 3 there are a lot of other cards bought from 4 Commerce Bank, so basically what he meant by 5 do something about it is try to maybe get the 6 fees reversed and basically resolve this 7 matter amicable, which I tried to do 8 legitimately. 9 Q. You have that conversation. Do 10 you recall any other conversations with your 11 father about Bulsara-1? 12 A. He knows that I'm in this 13 litigation. He is my father. He has a right 14 to know. 15 Q. Okay. Tell me about that 16 conversation with your father. 17 A. What do you mean by that? I 18 mean, he knows about Michael. 19 Q. How does he know about Michael? 20 A. I mean, he knows that I'm going 21 through this litigation. 22 Q. Okay. How does he know about 23 that? 24 A. Because I told him. 25 Q. Okay. What do you say to your</p>
<p style="text-align: right;">59</p> <p>1 this and I said that this card was depleted in 2 value. 3 Q. And his response is? 4 A. Well, he said he'll try to do 5 something about it. There's -- so that's 6 basically the nature of the conversation. I 7 mean, any conversation I had with my father is 8 kind of hard to recall during that time. We 9 are talking about six or seven months ago 10 here. 11 Q. Okay. 12 A. So for me to give something oath 13 to say I had this and this conversation is 14 hard to do, so. 15 Q. I want to know what you remember 16 today. You don't have to guess. You recall 17 having one conversation with your father where 18 he said this card has no more value, correct? 19 A. Yes. 20 Q. And he says, why don't you do 21 something about it, correct? 22 A. No. I think you are basically 23 misinterpreting what I mean by -- what he said 24 do something about it. What I mean he said do 25 something about it, he meant try to basically</p>	<p style="text-align: right;">61</p> <p>1 father? 2 A. I said, dad, I'm going to maybe 3 be a class representative in a class action 4 against TD Bank and the predecessor Commerce 5 Bank. 6 Q. When do you tell him that? 7 A. I would have to say in -- I 8 can't give you an exact date. 9 Q. This year, 2010? 10 A. Yes. 11 Q. Within the last three weeks? 12 A. I mean, we've had a few 13 conversations about this, so it's kind of hard 14 to basically pinpoint an exact date. 15 Q. Let's talk about the 16 conversations that you've had. You said a 17 few. More than five or less than five? 18 A. Oh, less than five. 19 Q. Start with the first time you 20 talked to your father about this litigation. 21 What occurred during that conversation? 22 A. What do you mean by that? 23 Q. Tell me about that conversation 24 with your father the first time you talked 25 about this litigation.</p>

16 (Pages 58 to 61)

<p style="text-align: right;">62</p> <p>1 A. What do you mean by that, 2 though? I mean, what do you mean? 3 Q. Where were you when you talked 4 to your father the first time? 5 A. At home. At the address that 6 was given to you. 7 Q. Who was present? 8 A. My father. 9 Q. Who else? 10 A. Nobody. 11 Q. So it's you and your father. 12 What do you say to your father? 13 A. What I've stated before. That 14 basically I'm going to be a class 15 representative in a class action against -- 16 possible class representative in a class 17 action against TD Bank and their predecessor, 18 Commerce Bank. 19 Q. What is your father's response? 20 A. Well, he was concerned obviously 21 because it adds a tension to me, but also, you 22 know, it is a moral issue and he said it's the 23 right thing to do, so I took his advice also 24 and it's my personal -- just for the record, 25 it's my own -- I feel the same way. I totally</p>	<p style="text-align: right;">64</p> <p>1 he's not a lawyer. So he does not know the 2 nature of the litigation. 3 Q. Does he ask you what it's going 4 to cost you? 5 A. No. 6 Q. Does he ask you who your 7 attorney is? 8 A. Yes. 9 Q. So he does that during the first 10 conversation you have? 11 A. Well, he asked because I 12 mentioned it. I mentioned the firm Silverman 13 and Fodera. 14 Q. Let's go back to what you said 15 you mentioned to him. So far during that 16 first conversation what I think you said is, 17 one, dad, I'm going to be a class 18 representative, correct? 19 A. Yes. 20 Q. Two, I'm being represented by 21 Silverman and Fodera, correct? 22 A. I would like to back up once 23 again. I said possible class representative. 24 Q. Possible. Sure. 25 A. Because I didn't know at that</p>
<p style="text-align: right;">63</p> <p>1 feel the same way. 2 Q. Anything else you can remember 3 from that first conversation? 4 A. What do you mean by that? 5 Q. Is there anything else that you 6 haven't told me that you can remember sitting 7 here today that your father said to you? 8 A. Like what? 9 Q. Anything. 10 A. Like, I mean, what do you mean 11 by that? See, the thing is, we have 12 conversations. We talk about like, oh, you 13 have nice sunglasses. I mean, what do you 14 mean by that exactly, counsel? 15 Q. You have a conversation with 16 your father. 17 A. Right. 18 Q. And you are talking about this 19 gift card litigation. 20 A. Yes. 21 Q. Is there anything else he says 22 to you with respect to this gift card 23 litigation during that first conversation? 24 A. No. I mean, he does not -- he 25 did not go into much detail about it because</p>	<p style="text-align: right;">65</p> <p>1 time, but now I do. 2 Q. Two, you said you are going to 3 be represented by the firm Silverman and 4 Fodera, correct? 5 A. Yes. 6 Q. What else do you tell your 7 father with respect to litigation during that 8 first conversation? 9 A. I don't really recall. I mean, 10 basically it's kind of hard to recall and be 11 put on the spot and basically detail that 12 whole kind of conversation basically, to be 13 quite honest with you. 14 Q. So the answer is you don't 15 remember? 16 A. What do you mean by that? 17 Q. What you do you think I mean by 18 that? 19 A. I really don't know what you 20 mean by that. You are asking me about this 21 gift card what I talked to my father about. I 22 mean, I've just told you basically what I 23 thought you would like to hear from me the 24 honest truth, but I think maybe you want to 25 hear something else. I really don't know what</p>

17 (Pages 62 to 65)

<p style="text-align: right;">66</p> <p>1 you want to hear.</p> <p>2 Q. What I'm trying to get at is I</p> <p>3 do not want to show up at trial and have you</p> <p>4 remember a bunch of things that you don't</p> <p>5 remember today. All I want you to do is tell</p> <p>6 me what you remember speaking to your father</p> <p>7 about and if the only thing you remember</p> <p>8 speaking to your father about is I told him I</p> <p>9 was represented by Silverman and Fodera and I</p> <p>10 told him that I was going to be a --</p> <p>11 A. I did mention that there are a</p> <p>12 dozen other cards involved. This got</p> <p>13 discovered because of my father, so that I</p> <p>14 would like to add in that, but that was</p> <p>15 already stated. There's not much more I can</p> <p>16 add to be put on the spot like that, to be</p> <p>17 quite honest with you. I think I made myself</p> <p>18 perfectly clear on this one.</p> <p>19 Q. So you don't remember anything</p> <p>20 else from that first conversation, correct?</p> <p>21 A. What do you mean like that? I</p> <p>22 mean, are you trying to say, like, what I was</p> <p>23 wearing that day or what?</p> <p>24 Q. No. The sum and substance of</p> <p>25 what you talked to your father about.</p>	<p style="text-align: right;">68</p> <p>1 Q. Does he ask you what the</p> <p>2 litigation is about?</p> <p>3 A. Oh, yes.</p> <p>4 Q. Okay.</p> <p>5 A. He did ask that, obviously.</p> <p>6 Q. What did you tell him the</p> <p>7 litigation is about?</p> <p>8 A. Well, it's about basically the</p> <p>9 dormancy fees involved with the card were not</p> <p>10 adequately advertised to the end user, and I</p> <p>11 would like to say for the record, I am not an</p> <p>12 attorney, so I don't know all the legal</p> <p>13 aspects of the litigation to be totally</p> <p>14 precise about it. I'm just basically giving</p> <p>15 it to you in layman's terms.</p> <p>16 Q. That is all I'm asking you to</p> <p>17 do, Mr. Bulsara. Does he ask you what is a</p> <p>18 class representative?</p> <p>19 A. Oh, yes.</p> <p>20 Q. And what was your answer to him?</p> <p>21 A. Well, basically you represent a</p> <p>22 class of members that basically are, quote</p> <p>23 unquote, victims of the alleged litigation.</p> <p>24 Q. And who are the members that are</p> <p>25 the victims --</p>
<p style="text-align: right;">67</p> <p>1 A. I think we mentioned the</p> <p>2 weather. It was raining or something. I'm</p> <p>3 not exactly sure.</p> <p>4 Q. The litigation. Anything else</p> <p>5 about the litigation?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Your father. Let's talk about</p> <p>8 what he said just with respect to the</p> <p>9 litigation. We don't care about the weather.</p> <p>10 We don't care about what you are wearing.</p> <p>11 What does he say to you with respect to</p> <p>12 the litigation during that first conversation?</p> <p>13 A. Well, like I said -- mentioned</p> <p>14 before, he was concerned that that would add a</p> <p>15 tension to me because I've already been</p> <p>16 through a lot these last few years, so he was</p> <p>17 concerned about me. So, you know, basically</p> <p>18 that is what it was. That's the nature of the</p> <p>19 conversations any father and son would have.</p> <p>20 Q. Does he ask you about the cost</p> <p>21 of the litigation?</p> <p>22 A. No.</p> <p>23 Q. Did he ask you where you found</p> <p>24 your attorney?</p> <p>25 A. I don't think so.</p>	<p style="text-align: right;">69</p> <p>1 A. Anyone who has bought a gift</p> <p>2 card that has been assessed dormancy fees.</p> <p>3 Q. Anyone who has bought the gift</p> <p>4 cards are the members. Is that what you are</p> <p>5 saying?</p> <p>6 A. You just totally misread.</p> <p>7 Anybody who has bought the gift card and has</p> <p>8 been assessed dormancy fees.</p> <p>9 Q. Okay. The members that you are</p> <p>10 representing was anyone who has bought a gift</p> <p>11 card and has been assessed dormancy fees?</p> <p>12 A. This is a legal aspect to be</p> <p>13 discussed during discovery. I exactly don't</p> <p>14 know who would be a member. It's kind of a</p> <p>15 legal aspect to be asking who would be a</p> <p>16 member of the class action, who would not.</p> <p>17 I'm just assuming that if one were to be</p> <p>18 assessed a dormancy fee, I assume that</p> <p>19 basically there would be a member of the class</p> <p>20 action and they would be -- have to be</p> <p>21 notified that, hey, you've been assessed fees.</p> <p>22 There is a class action here.</p> <p>23 Q. You and your father, are you</p> <p>24 both members of the class?</p> <p>25 MR. LALLI: Objection. You can</p>

18 (Pages 66 to 69)



<p style="text-align: right;">70</p> <p>1 answer, if you know.</p> <p>2 A. No.</p> <p>3 Q. No. Okay.</p> <p>4 A. What does that mean exactly in</p> <p>5 legal speak? What does this mean?</p> <p>6 Q. The members of the class that</p> <p>7 you said were assessed dormancy fees, are you</p> <p>8 representing your father in that litigation?</p> <p>9 A. Am I representing him?</p> <p>10 Q. As a class representative.</p> <p>11 A. I'm assuming I am, yes.</p> <p>12 Q. Let's talk about Bulsara-1. All</p> <p>13 right? There's \$25 in fees that are assessed</p> <p>14 to this card, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Let's assume for the purposes of</p> <p>17 this hypothetical that you -- your complaint,</p> <p>18 the allegations are correct and the bank did</p> <p>19 not adequately disclose the fees. Who does</p> <p>20 that money go back to?</p> <p>21 MR. LALLI: Objection. You can</p> <p>22 answer the question.</p> <p>23 THE WITNESS: I would like to</p> <p>24 defer if there is an objection.</p> <p>25 MR. LALLI: No. No. I'm</p>	<p style="text-align: right;">72</p> <p>1 father about the litigation. What do you say</p> <p>2 to him?</p> <p>3 A. I really don't know. When I</p> <p>4 basically discussed what has been discussed, I</p> <p>5 was basically being all inclusive of any and</p> <p>6 all conversations about this, so basically if</p> <p>7 you want -- when you try to break it down into</p> <p>8 conversation one, conversation two or whatnot,</p> <p>9 it's pretty tough to basically pinpoint what</p> <p>10 has been said in this conversation and what</p> <p>11 has been said in this conversation. You get</p> <p>12 my drift?</p> <p>13 Q. Got you. So everything you've</p> <p>14 discussed here that occurred is the sum and</p> <p>15 substance of what happened with respect to</p> <p>16 your conversations with your father, correct?</p> <p>17 A. Well, I mean, maybe there is</p> <p>18 something I'm missing. Maybe there is</p> <p>19 basically something I'm forgetting because I</p> <p>20 mean, a deposition I'm basically put on the</p> <p>21 spot and being asked to present an answer</p> <p>22 within a very short time frame. I'm sure</p> <p>23 maybe there is maybe something else discussed.</p> <p>24 I really don't know. I don't remember. Maybe</p> <p>25 I should talk to him again and maybe ask him.</p>
<p style="text-align: right;">71</p> <p>1 instructing you to answer the question, if you</p> <p>2 can answer.</p> <p>3 MR. STIO: Could you read it</p> <p>4 back?</p> <p>5 (At which time, the last</p> <p>6 question was read back.)</p> <p>7 A. The person -- it is a tricky</p> <p>8 matter. I would say basically the person that</p> <p>9 bought the card or maybe the person who</p> <p>10 received the card. It's really a sticky</p> <p>11 situation. I really don't know. I think the</p> <p>12 valid point would be the person who bought the</p> <p>13 card should be given a new card back and let</p> <p>14 them figure out who they gave it to or maybe</p> <p>15 do something about it and give it to -- let</p> <p>16 them figure it out. It's really a tough --</p> <p>17 that's a really tough question.</p> <p>18 Q. Does your father have any</p> <p>19 records relating to the transaction of</p> <p>20 purchasing the cards?</p> <p>21 A. Not that I recall.</p> <p>22 Q. So we focused on that first</p> <p>23 conversation that you had with your father.</p> <p>24 You said there were a few others. Let's talk</p> <p>25 about the second time you talked to your</p>	<p style="text-align: right;">73</p> <p>1 It makes me wonder should I ask him what we've</p> <p>2 talked about. Maybe make notes of it. I</p> <p>3 really don't know.</p> <p>4 Q. But you don't have notes of</p> <p>5 those conversations?</p> <p>6 A. No. And no normal person would</p> <p>7 take notes with their father about a</p> <p>8 conversation, just to be quite candid. Can we</p> <p>9 take a water break, if you don't mind?</p> <p>10 Q. Absolutely.</p> <p>11 (At which time, a short recess</p> <p>12 was taken.)</p> <p>13 (At which time, the last</p> <p>14 question was read back.)</p> <p>15 Q. Mr. Bulsara, during this</p> <p>16 deposition we started to talk about gift cards</p> <p>17 that you've received or purchased and from my</p> <p>18 notes we talked about gift cards for Wal-Mart,</p> <p>19 that you received from Wal-Mart.</p> <p>20 Approximately 12 gift cards from Commerce</p> <p>21 Bank. Two of which, at least two of which you</p> <p>22 received. The others we don't know who the</p> <p>23 recipients are, who they were given to, but</p> <p>24 your father had purchased them, correct?</p> <p>25 A. Correct.</p>

19 (Pages 70 to 73)



<p style="text-align: right;">74</p> <p>1 Q. Are there any other gift cards</p> <p>2 that you --</p> <p>3 A. I would like to add to that</p> <p>4 basically because as I had mentioned before,</p> <p>5 the profiles vis-a-vis Commerce Bank at that</p> <p>6 time profiles were linked, so basically if I</p> <p>7 had purchased a card or he had purchased a</p> <p>8 card -- let's just make this very simple here.</p> <p>9 Okay? So let's say I go to the branch and</p> <p>10 basically a profile is linked. They are just</p> <p>11 going to basically pull up any old account</p> <p>12 number you have on that profile if it's linked</p> <p>13 and basically paste it on that. Do you get</p> <p>14 what I'm saying? That is from my</p> <p>15 understanding of it.</p> <p>16 Q. No. I don't understand.</p> <p>17 A. You don't understand?</p> <p>18 Q. No.</p> <p>19 A. You asked if I had purchased a</p> <p>20 card and I had told you before that I don't</p> <p>21 recall exactly what I had done when I had done</p> <p>22 it because it's kind of hard for me to</p> <p>23 recollect that long ago, so what I was trying</p> <p>24 to say is basically -- that's basically a</p> <p>25 summation of what I'm trying to say. You get</p>	<p style="text-align: right;">76</p> <p>1 than Bulsara-1 and Bulsara-2. You do not know</p> <p>2 whether you purchased them or your father</p> <p>3 purchased them, correct?</p> <p>4 A. Exactly.</p> <p>5 Q. Okay. And it's your</p> <p>6 understanding that the profiles are linked,</p> <p>7 correct?</p> <p>8 A. It's to my understanding that</p> <p>9 profiles are linked.</p> <p>10 Q. Do you and your father have a</p> <p>11 joint account at Commerce Bank?</p> <p>12 A. Yes. That is exactly what I was</p> <p>13 trying to get at.</p> <p>14 Q. Now I understand. Thank you.</p> <p>15 A. See what I'm saying?</p> <p>16 Q. Yes.</p> <p>17 A. And I know there's just maybe</p> <p>18 one or two accounts like that. They are</p> <p>19 accounts that are closed, so it's really hard</p> <p>20 for me to basically dig up that kind of</p> <p>21 information without basically going too deep</p> <p>22 into that and asking for all different kinds</p> <p>23 of records. You know what I'm saying?</p> <p>24 Q. Sitting here today, do you ever</p> <p>25 remember walking into a Commerce Bank branch</p>
<p style="text-align: right;">75</p> <p>1 what I'm trying to say now?</p> <p>2 Q. Is your testimony that you don't</p> <p>3 know if you are a purchaser of the Commerce</p> <p>4 Bank card or a recipient of a Commerce Bank</p> <p>5 card?</p> <p>6 A. That is what I am saying. I</p> <p>7 don't remember if I purchased myself a</p> <p>8 Commerce gift card or not and I'm not in a</p> <p>9 position to basically say, yes, I did or, no,</p> <p>10 I didn't, but what is apparent is that I have</p> <p>11 these gift cards in my possession and I have</p> <p>12 them right here, Bulsara-1 exhibit one</p> <p>13 Bulsara-2. These were given to me from my</p> <p>14 father.</p> <p>15 Q. Correct.</p> <p>16 A. Just to be clear.</p> <p>17 Q. The other gift cards, other than</p> <p>18 Bulsara-1 and Bulsara-2 that you are talking</p> <p>19 about with respect to Commerce Bank.</p> <p>20 A. Right.</p> <p>21 Q. Your testimony is, you don't</p> <p>22 know whether you purchased them or your father</p> <p>23 purchased them?</p> <p>24 A. These?</p> <p>25 Q. No, sir. The other ones, other</p>	<p style="text-align: right;">77</p> <p>1 or a TD Bank branch and you personally</p> <p>2 purchasing a gift card?</p> <p>3 A. I do not remember.</p> <p>4 Q. Other than the Commerce Bank</p> <p>5 gift cards and the Wal-Mart gift cards, have</p> <p>6 you purchased any other gift cards?</p> <p>7 A. Can you basically be more</p> <p>8 specific with that question? In my whole</p> <p>9 entire life?</p> <p>10 Q. Yes, sir.</p> <p>11 A. It's hard for me to recall, to</p> <p>12 be quite honest with you.</p> <p>13 Q. In your whole entire life have</p> <p>14 you ever received a gift card, other than the</p> <p>15 Wal-Mart gift cards that we discussed and the</p> <p>16 Commerce gift cards we discussed?</p> <p>17 A. I believe so.</p> <p>18 Q. What gift cards do you recall</p> <p>19 receiving?</p> <p>20 A. Macy's gift card.</p> <p>21 Q. When did you receive that?</p> <p>22 A. I really don't know.</p> <p>23 Q. Who gave it to you?</p> <p>24 A. That also I really don't recall.</p> <p>25 Q. Do you know the denomination?</p>

20 (Pages 74 to 77)

<p style="text-align: right;">78</p> <p>1 A. I really don't recall.</p> <p>2 Q. Did you use the gift card?</p> <p>3 A. I believe so.</p> <p>4 Q. How soon did you use it after</p> <p>5 you received it?</p> <p>6 A. I really don't know.</p> <p>7 Q. Did you read any writing on the</p> <p>8 gift card, the Macy's gift card?</p> <p>9 A. No.</p> <p>10 Q. What type of packaging did the</p> <p>11 Macy's gift card come in?</p> <p>12 A. It doesn't come in packaging.</p> <p>13 Q. Does it come in an envelope?</p> <p>14 A. No.</p> <p>15 Q. Is it attached to a piece of</p> <p>16 cardboard?</p> <p>17 A. No.</p> <p>18 Q. Do terms and conditions</p> <p>19 accompany the Macy's gift card?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Was there a 1-800 or toll free</p> <p>22 number on the Macy's gift card?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Did you call any 1-800 or toll</p> <p>25 free number with respect to the Macy's gift</p>	<p style="text-align: right;">80</p> <p>1 Q. Was it before or after you</p> <p>2 received Commerce Bank gift cards Bulsara-1</p> <p>3 and Bulsara-2?</p> <p>4 A. I would have to venture to say</p> <p>5 before.</p> <p>6 Q. Any other gift cards besides</p> <p>7 Macy's gift card?</p> <p>8 A. Not that I recall. And just for</p> <p>9 the record, I would like to stipulate that</p> <p>10 it's kind of hard for somebody to recall gift</p> <p>11 cards being given because of time frames being</p> <p>12 involved. The normal person, I mean, if it's</p> <p>13 a question of two years ago or three years ago</p> <p>14 or five years ago, it is kind of hard to</p> <p>15 basically remember have you received a gift</p> <p>16 card. What you did with the gift card. That</p> <p>17 kind of thing, just for the record.</p> <p>18 Q. Do you recall seeing any</p> <p>19 advertising for TD Bank or Commerce Bank gift</p> <p>20 cards?</p> <p>21 A. In the branch.</p> <p>22 Q. You did. Okay.</p> <p>23 A. They are banners. It is</p> <p>24 aggressively advertised in their branch, from</p> <p>25 what I recall.</p>
<p style="text-align: right;">79</p> <p>1 card?</p> <p>2 A. No.</p> <p>3 Q. Did you incur any fees with</p> <p>4 respect to the Macy's gift card?</p> <p>5 A. No, not that I recall.</p> <p>6 Q. When you got the Macy's gift</p> <p>7 card, what were the factors that you thought</p> <p>8 of when you received it? Do you think I need</p> <p>9 to spend this quickly? Did you think I'll</p> <p>10 save it for a rainy day? What was your</p> <p>11 thought process?</p> <p>12 A. My thought process was basically</p> <p>13 save it for a rainy day or something like that</p> <p>14 because basically, from my understanding, that</p> <p>15 gift card does not expire.</p> <p>16 Q. And how do you know that that</p> <p>17 gift card does not expire?</p> <p>18 A. Because there is no expiration</p> <p>19 date on the card.</p> <p>20 Q. On the front of the card?</p> <p>21 A. I believe so.</p> <p>22 Q. When did you receive -- if I've</p> <p>23 asked this already, I apologize. When did you</p> <p>24 receive the Macy's gift card?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">81</p> <p>1 Q. And this advertising is with</p> <p>2 respect to gift cards?</p> <p>3 A. I believe so.</p> <p>4 Q. What do you recall about the</p> <p>5 advertising?</p> <p>6 A. It's hard for me to remember,</p> <p>7 point out literature on the banners.</p> <p>8 Basically if I had to recall what it was, it's</p> <p>9 basically gift cards at the most convenient</p> <p>10 bank. Something of that nature.</p> <p>11 Q. Anything else that you can</p> <p>12 recall sitting here today?</p> <p>13 A. You know, when I look at</p> <p>14 banners, the normal I spend maybe five seconds</p> <p>15 looking at a banner, then I pass through, so I</p> <p>16 don't really study a banner and basically</p> <p>17 remember all the literature on the banner and</p> <p>18 basically also I would like to put that on the</p> <p>19 record.</p> <p>20 Q. Sure. Why do you purchase gift</p> <p>21 cards or why have you purchased gift cards?</p> <p>22 A. I had mentioned before because</p> <p>23 basically it is more of -- I had felt or I had</p> <p>24 felt in the past that it is a more classy way</p> <p>25 of giving a gift than giving straight cash to</p>

21 (Pages 78 to 81)

<p style="text-align: right;">82</p> <p>1 somebody. That's the best way to put it.</p> <p>2 Q. Okay. How did you come about</p> <p>3 retaining Silverman and Fodera as your</p> <p>4 attorneys?</p> <p>5 A. It's a funny story, actually. I</p> <p>6 had read about you. You had given basically</p> <p>7 -- you had basically made a statement</p> <p>8 regarding a matter regarding TD Bank, the TD</p> <p>9 Bank litigation where basically I had stumbled</p> <p>10 upon Silverman and Fodera.</p> <p>11 Q. But me, Angelo Stio, made a</p> <p>12 statement?</p> <p>13 A. Angelo Stio. A person by the</p> <p>14 last name of Harvey. A person by the last</p> <p>15 name Goldberg.</p> <p>16 Q. And where did you see that</p> <p>17 information?</p> <p>18 A. Www.Google.com. If you search</p> <p>19 for TD Bank gift card.</p> <p>20 Q. So when did you do that search?</p> <p>21 A. What do you mean?</p> <p>22 Q. You said you stumbled upon</p> <p>23 Silverman and Fodera because you saw a</p> <p>24 statement made by me.</p> <p>25 A. Not saying you. It could be you</p>	<p style="text-align: right;">84</p> <p>1 dig up that kind of information, I could later</p> <p>2 on, but I mean, I came into a deposition. I</p> <p>3 didn't expect that kind of line of</p> <p>4 questioning, when did you contact the law</p> <p>5 firm? How did you contact a law firm and all</p> <p>6 that.</p> <p>7 MR. LALLI: Nick, Angelo is just</p> <p>8 asking you questions to your memory. If you</p> <p>9 can answer them, you can answer them.</p> <p>10 A. Okay. Basically from what I</p> <p>11 recall it's shortly after this matter was --</p> <p>12 when I was referred to being dared to file a</p> <p>13 suit. Very shortly after that incident I had</p> <p>14 basically ventured into taking legal action</p> <p>15 and that's when I had initially contacted</p> <p>16 Silverman and Fodera.</p> <p>17 Q. And you spoke with Michael</p> <p>18 Lalli?</p> <p>19 A. Yes.</p> <p>20 Q. Did you speak to any other law</p> <p>21 firms, other than Silverman and Fodera?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Have you ever spoken to Bradley</p> <p>24 Mann?</p> <p>25 A. No.</p>
<p style="text-align: right;">83</p> <p>1 or --</p> <p>2 Q. The law firm of Pepper Hamilton.</p> <p>3 Yes, sir.</p> <p>4 A. Yes.</p> <p>5 Q. When did you do that search and</p> <p>6 discover that statement?</p> <p>7 A. I don't recall.</p> <p>8 Q. Did you look at any other</p> <p>9 attorneys?</p> <p>10 A. Not that I recall.</p> <p>11 Q. After you see that statement, do</p> <p>12 you then contact Silverman and Fodera?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall when that was?</p> <p>15 A. I don't remember the exact date.</p> <p>16 Q. Do you recall who you spoke to?</p> <p>17 A. I spoke to Michael Lalli.</p> <p>18 Q. Can you estimate when that first</p> <p>19 conversation was?</p> <p>20 A. It's really hard for me to</p> <p>21 estimate that.</p> <p>22 Q. So you can't break it down into</p> <p>23 a month?</p> <p>24 A. I wasn't expecting that kind of</p> <p>25 line of questioning. If I had to basically</p>	<p style="text-align: right;">85</p> <p>1 Q. Angelo Capizzi?</p> <p>2 A. No.</p> <p>3 Q. Margaret Munthali?</p> <p>4 A. No.</p> <p>5 Q. Fern Ruthberg?</p> <p>6 A. No.</p> <p>7 Q. Chawezi Mwantembe?</p> <p>8 A. No.</p> <p>9 Q. Sandra Elmoznino?</p> <p>10 A. No. Just for the record, I've</p> <p>11 never heard of these people in my entire life.</p> <p>12 Q. Other than your father, did you</p> <p>13 talk to anyone else, and I don't want to know</p> <p>14 about your conversations with your attorneys,</p> <p>15 but anyone else about this litigation?</p> <p>16 A. No. Oh, since you bring that</p> <p>17 up, card holder services because they had</p> <p>18 basically dared me to file a lawsuit.</p> <p>19 Q. Right. But we discussed your</p> <p>20 conversation with them.</p> <p>21 A. Yes.</p> <p>22 Q. But other than your father, card</p> <p>23 holder services, anyone else that you spoke</p> <p>24 to?</p> <p>25 A. No, not that I had.</p>

22 (Pages 82 to 85)

<p style="text-align: right;">86</p> <p>1 Q. Did you review any documents 2 with respect to this litigation? 3 A. What do you mean by that? 4 Q. Any legal documents? 5 A. What do you mean by legal 6 documents? 7 Q. Did you review the complaint? 8 A. I did. I asked Michael to 9 forward it to me and I roughly read through 10 it. 11 Q. Okay. And that was the first 12 amended complaint that was filed in this case? 13 A. I don't know which filing. 14 There are multiple filings done on this. I 15 didn't venture to basically go through all 16 those because I have an attorney, so I didn't 17 want to go through all the filings and read 18 them verbatim, but I was forwarded something 19 by Michael, yes. 20 Q. Okay. 21 (At which time, Plaintiff's 22 First Amended Class Action Complaint was 23 marked Bulsara-3 for identification.) 24 Q. Mr. Bulsara, I'm going to show 25 you a document that's been marked Bulsara-3.</p>	<p style="text-align: right;">88</p> <p>1 with respect to this lawsuit? 2 A. No. 3 Q. Any e-mail -- e-mailed anyone 4 about this lawsuit? 5 A. No. 6 Q. Have you contacted any 7 government agencies about this lawsuit? 8 A. Can you repeat the question? 9 Q. Sure. Have you contacted any 10 government agencies about this lawsuit? 11 A. No. 12 Q. Did you authorize your attorney 13 to file a complaint on your behalf in this 14 case? 15 A. Yes. 16 Q. Can you take a look at what's 17 marked as Bulsara-3? I'm going to direct your 18 attention to paragraph five. Do you see that, 19 sir? 20 A. Yes. 21 Q. That lists a bunch of 22 allegations with respect to TD Bank. Let's 23 focus in on five small Roman numeral one. Did 24 that conduct affect you? 25 MR. LALLI: Before Nick answers</p>
<p style="text-align: right;">87</p> <p>1 It is entitled Plaintiff's First Amended Class 2 Action Complaint. Have you ever seen this 3 document before? 4 A. For the record, this is not a 5 page numbered document, but I'm going to 6 venture to say this is a 50 or 60 page 7 document. I cannot say that I've read through 8 this type of document or not. 9 MR. LALLI: The question was, 10 did you ever see it? 11 THE WITNESS: Would you give me 12 a minute to look through this? 13 Q. Absolutely. Take as much time 14 as you need. 15 A. When was this filed? 16 MR. LALLI: You are here to 17 answer questions. Not ask them. 18 THE WITNESS: It is hard for me 19 to gauge if I've seen this exact document, to 20 be perfectly honest with you. 21 Q. Okay. 22 A. It's really hard for me to 23 gauge. 24 Q. Thank you. Mr. Bulsara, have 25 you ever posted any information on the web</p>	<p style="text-align: right;">89</p> <p>1 any questions about the complaint. 2 A. I would have to read this. 3 MR. LALLI: Let me finish here. 4 Before he answers any questions about them, I 5 want to put on the record that was prepared by 6 his attorney. It is a class action complaint. 7 He can answer questions, factual questions 8 about it, but as to the legalities, it was 9 prepared by his attorneys. 10 MR. STIO: Sure. 11 MR. LALLI: I think the question 12 was, did five Roman numeral one help you? 13 Q. Mr. Bulsara, we can make this 14 easier. 15 A. We can. 16 Q. Let me finish the question. 17 What conduct that TD Bank or Commerce Bank 18 engaged in affected you that you are 19 complaining about in this lawsuit? 20 MR. LALLI: I'm going to object, 21 but you can answer to the best of your 22 knowledge. 23 A. I think I've answered this 24 question already in a previous line of 25 questioning. Would you like me to repeat?</p>

23 (Pages 86 to 89)

<p style="text-align: right;">90</p> <p>1 Q. That would be great.</p> <p>2 A. Basically I was given the gift</p> <p>3 card on my birthday and I was not able to use</p> <p>4 the gift card. It caused me duress. I had to</p> <p>5 go through a lot of hassle to call up TD Bank</p> <p>6 and go through this matter with them and I was</p> <p>7 -- at the end of the whole thing I was still</p> <p>8 not able to get a resolution of it for a</p> <p>9 question in this case for exhibit Bulsara-1</p> <p>10 \$25, so basically in this one example fees</p> <p>11 were assessed and the whole card was depleted,</p> <p>12 and I was not able to use the card and it was</p> <p>13 a birthday gift from my father.</p> <p>14 Q. Okay.</p> <p>15 A. That caused me a lot of stress.</p> <p>16 Q. Let's talk about the stress and</p> <p>17 the duress that it caused you.</p> <p>18 A. Well, I mean, that is like a</p> <p>19 legal aspect, isn't it?</p> <p>20 Q. Tell me about you used the word</p> <p>21 stress. I didn't use it. So in your words,</p> <p>22 what does stress mean?</p> <p>23 A. Well, when you are dared to file</p> <p>24 a lawsuit by a bank, I mean, it kind of leaves</p> <p>25 you no choice but to go and seek out a legal</p>	<p style="text-align: right;">92</p> <p>1 lawsuit is causing you stress or TD Bank's</p> <p>2 actions caused you to --</p> <p>3 A. TD Bank's actions caused me the</p> <p>4 stress.</p> <p>5 Q. What specific actions engaged in</p> <p>6 by TD Bank caused you stress?</p> <p>7 A. Well, TD Bank bought Commerce</p> <p>8 Bank, just for the record, and the Commerce</p> <p>9 Bank card I was not able to use, and it was</p> <p>10 given to me on my birthday.</p> <p>11 Q. And the fact that you were not</p> <p>12 able to use it is Commerce Bank's fault,</p> <p>13 correct?</p> <p>14 MR. LALLI: Objection.</p> <p>15 A. And also TD Bank.</p> <p>16 Q. Okay. And why is it their</p> <p>17 fault?</p> <p>18 MR. LALLI: Objection, but you</p> <p>19 can answer.</p> <p>20 A. Because they bought Commerce</p> <p>21 Bank.</p> <p>22 Q. Why was it Commerce Bank's</p> <p>23 fault?</p> <p>24 MR. LALLI: Same objection. You</p> <p>25 can answer.</p>
<p style="text-align: right;">91</p> <p>1 means to do so and, I mean, I'm just assuming</p> <p>2 that the representative told me to do so</p> <p>3 because it was such a small amount. Maybe she</p> <p>4 thinks, oh, I'll just throw it in the garbage,</p> <p>5 forget about it. Well, there's probably tens</p> <p>6 if not tens of thousands of people affected by</p> <p>7 the same thing that I've gone through, and I</p> <p>8 thought to myself, hey, it is a moral dilemma</p> <p>9 here.</p> <p>10 Q. And that's the stress. The</p> <p>11 lawsuit itself is what's causing you stress?</p> <p>12 A. Well, I mean, let's put it this</p> <p>13 way. I've taken a lot of time out of my</p> <p>14 personal time to focus my attention on this</p> <p>15 matter and go through all of this. What</p> <p>16 seemed to be like a simple thing turns into a</p> <p>17 class action lawsuit, so basically the best</p> <p>18 way to put it is, there is a proverb --</p> <p>19 actually never mind. Basically the best way</p> <p>20 to put it is it's caused me stress because I</p> <p>21 have to go through all of this. I have to go</p> <p>22 through this and I'm going to be named as a</p> <p>23 plaintiff in this lawsuit and I think it's the</p> <p>24 right thing to do.</p> <p>25 Q. My question to you is, the</p>	<p style="text-align: right;">93</p> <p>1 A. They are one and the same,</p> <p>2 aren't they? It was TD Bank acquired Commerce</p> <p>3 Bank and basically I'm assuming the same</p> <p>4 practice is still in place from when Commerce</p> <p>5 Bank was present until when TD Bank was</p> <p>6 present -- is present.</p> <p>7 Q. Mr. Bulsara, let's go to</p> <p>8 paragraph five Roman numeral one. It says,</p> <p>9 Defendants' systematic, deceptive course of</p> <p>10 conduct and advertising constituting breach of</p> <p>11 contract, unjust enrichment, and violations of</p> <p>12 the CFA at N.J.S.A. 56:8-2, OCC guidelines,</p> <p>13 regulations and/or bulletins, 15 U.S.C section</p> <p>14 45(a)(1) and other applicable law, as detailed</p> <p>15 herein, is evidenced by, amongst other things</p> <p>16 the following and then there is a list of</p> <p>17 approximately 18 different types of conduct</p> <p>18 that the complaint alleges is systematic and</p> <p>19 deceptive. I'm going to go through each of</p> <p>20 these 18 to determine which one you think you</p> <p>21 were the victim of.</p> <p>22 A. I would rather not because this</p> <p>23 is putting me on the spot. I didn't even get</p> <p>24 to look at this document. It was prepared by</p> <p>25 my attorney. It is not fair to be put on the</p>

24 (Pages 90 to 93)



<p style="text-align: right;">94</p> <p>1 spot and basically interrogated question by</p> <p>2 question, line by line on this, just for the</p> <p>3 record, and I have to be very firm on that.</p> <p>4 Q. So it is your testimony that you</p> <p>5 are not going to respond to the allegations</p> <p>6 that are in the complaint, correct?</p> <p>7 A. I would like to go through it</p> <p>8 and basically give an intelligent answer to</p> <p>9 all of these allegations.</p> <p>10 Q. Sure. We can do this the easy</p> <p>11 way and you can answer these questions or we</p> <p>12 can call up the judge and the judge can make</p> <p>13 the call. How do you want to proceed?</p> <p>14 A. The judge call me for what?</p> <p>15 They can give me a call if they'd like.</p> <p>16 MR. LALLI: Nick.</p> <p>17 MR. STIO: Off the record.</p> <p>18 (At which time, an</p> <p>19 off-the-record discussion took place.)</p> <p>20 Q. Mr. Bulsara, I gave you what is</p> <p>21 marked as Bulsara-3. I asked you questions</p> <p>22 about paragraph five. Is it your testimony</p> <p>23 that you have not read paragraph five before?</p> <p>24 A. I may or may not have read this</p> <p>25 and there are 18 line items here. It's kind</p>	<p style="text-align: right;">96</p> <p>1 fully understand the allegations of the</p> <p>2 complaint; is that correct?</p> <p>3 MR. LALLI: Objection. You can</p> <p>4 answer the question.</p> <p>5 A. I do understand. I mean, I</p> <p>6 understand in macro terms in terms of,</p> <p>7 basically, in microscopic terms. It is kind</p> <p>8 of unfair to ask me about that when I have an</p> <p>9 attorney. I mean, I haven't even had the</p> <p>10 chance to basically dissect all this material</p> <p>11 like this.</p> <p>12 Q. Are you a victim of false</p> <p>13 advertising by TD Bank or Commerce Bank?</p> <p>14 MR. LALLI: Objection. If you</p> <p>15 know, you can answer.</p> <p>16 A. What is the definition of false</p> <p>17 advertising?</p> <p>18 Q. I don't know. There is a</p> <p>19 definition in the complaint that you filed.</p> <p>20 MR. LALLI: We've already put on</p> <p>21 the record that the pleading I was prepared by</p> <p>22 Mr. Bulsara's attorneys.</p> <p>23 Q. Okay.</p> <p>24 A. Can you repeat the question?</p> <p>25 (At which time, the last</p>
<p style="text-align: right;">95</p> <p>1 of hard for me to do so in ten minutes.</p> <p>2 Q. Okay.</p> <p>3 A. If you'd like to give me more</p> <p>4 time, I would really love to go through all</p> <p>5 this and read it.</p> <p>6 Q. Don't you think that you should</p> <p>7 have done that before you filed the complaint?</p> <p>8 A. No.</p> <p>9 MR. LALLI: I'm going to object.</p> <p>10 Q. What do you think your</p> <p>11 obligations are as a class representative?</p> <p>12 A. My obligations are to represent</p> <p>13 the class members and basically make sure that</p> <p>14 the litigation goes in the best manner for the</p> <p>15 members.</p> <p>16 Q. Okay. How do you expect to</p> <p>17 fulfill those obligations?</p> <p>18 A. Well, to try my best and</p> <p>19 basically understand the legality behind it</p> <p>20 and read through the whole document. They are</p> <p>21 basically, like, 60 or so pages. I'm just</p> <p>22 saying that it's going to take me a while to</p> <p>23 read through all of this verbatim and fully</p> <p>24 understand it.</p> <p>25 Q. Sitting here today you don't</p>	<p style="text-align: right;">97</p> <p>1 question was read back.)</p> <p>2 A. I'm not a lawyer, but I'll have</p> <p>3 to say, yes.</p> <p>4 Q. What false advertising?</p> <p>5 A. False advertising in the sense</p> <p>6 that basically there's an active through date</p> <p>7 on the front of the card so one would assume</p> <p>8 that the card is valid until the active</p> <p>9 through date were through on the card.</p> <p>10 Q. Any other advertising beside</p> <p>11 that that you can recall?</p> <p>12 A. Basically there is, like I</p> <p>13 mentioned, things in the branch. The banners.</p> <p>14 Q. Sure. What is false about the</p> <p>15 banners?</p> <p>16 A. It doesn't stipulate that there</p> <p>17 is fees in there. On the banners from my</p> <p>18 memory I mentioned that basically I only look</p> <p>19 at banners for five or ten seconds at most.</p> <p>20 Q. Do you recall ever looking at</p> <p>21 the banner and then going and purchasing a</p> <p>22 gift card in a Commerce Bank branch?</p> <p>23 A. Not that I recall.</p> <p>24 Q. How about a TD Bank branch?</p> <p>25 A. Not that I recall.</p>

25 (Pages 94 to 97)



<p style="text-align: right;">98</p> <p>1 Q. And just for the record, all of 2 your purchases were at Commerce Bank branches, 3 correct? 4 A. Not that I recall. I really 5 don't know. There was a period in time where 6 basically some Commerce Banks were being 7 converted to TD Bank. It was a murky 8 situation where some were Commerce. Some were 9 TD. It was that kind of situation. 10 Q. Are you complaining in this 11 lawsuit about replacement card fees? 12 A. That's also unfair. I mean, 13 basically people if they lose their card, they 14 have to basically pay out of the small money 15 they have for a replacement card. I mean, I 16 would assume that it would be a gratus thing 17 to do. It would be good PR for TD Bank or 18 Commerce Bank for them to be so gratus, but I 19 also feel that it's unfair. 20 Q. But did you have to pay any 21 replacement card fees? 22 A. No, not that I recall and if 23 they were given to somebody and they lost 24 their card and they had to replace it, I 25 really don't know. That would have to be</p>	<p style="text-align: right;">100</p> <p>1 A. What do you mean by who told 2 you? 3 Q. The disclosure. 4 A. You are talking about on the 5 back of the card? Are you talking about the 6 branch? Are you talking about the customer 7 service rep? 8 Q. Anyone that told you. 9 A. It's written on the back of the 10 card. 11 Q. You are not complaining that it 12 is not disclosed on the back of the card, 13 correct? 14 A. It is written on the back of the 15 card. 16 Q. Thank you. 17 A. As far as customer rep savviness 18 and knowing that fee, I really don't know 19 because I cannot account for everybody's -- 20 every customer representative's savviness in 21 that regard. 22 Q. You know a lot about the 23 Commerce Bank system and the profile when you 24 purchase the card. You talked about that. 25 A. Do I?</p>
<p style="text-align: right;">99</p> <p>1 discovered. 2 Q. Are you complaining that they 3 didn't disclose the amount of monthly 4 maintenance fees that were going to be 5 assessed after a certain period of time on the 6 card? 7 A. What do you mean by that? 8 Q. Sure. Are you saying -- 9 A. See. 10 Q. Can I finish my question, sir? 11 A. Go ahead. 12 Q. Are you saying that TD Bank 13 didn't tell you or didn't disclose that \$2.50 14 was going to be charged to the card as a 15 maintenance fee on the 365th day after the 16 card was issued? Are you saying that? 17 A. Well, in my prior testimony I 18 had mentioned that basically it is kind of 19 hard to assess when that 365th day is when one 20 does not know when it was purchased. 21 Q. But are you saying that they 22 didn't tell you that the monthly fee -- what 23 the monthly fee was going to be? Let's leave 24 aside the issue date because we got that 25 already.</p>	<p style="text-align: right;">101</p> <p>1 Q. I thought you did. 2 A. I did mention it because, yes. 3 Q. Do you get a receipt when you 4 purchase a gift card? 5 A. Not that I recall, and to be 6 quite honest about it, I believe that like I 7 had mentioned before, if you have an account, 8 it's basically added to your profile on that 9 account. 10 Q. Do you get a regular statement 11 from Commerce Bank? 12 A. I've had an issue where 13 basically I don't get statements forwarded to 14 me. I had an issue. I made that vocal with 15 them that I don't get statements forwarded to 16 me. 17 Q. But do you generally get 18 statements? 19 A. Generally, yes. 20 Q. If you purchase a gift card, is 21 the statement -- does the purchase of that 22 gift card show up on the statement? 23 A. I would have to basically verify 24 that and look through that. Look through the 25 statements.</p>

26 (Pages 98 to 101)

<p style="text-align: right;">102</p> <p>1 Q. But you don't know one way or 2 the other if they do or they don't? 3 A. I mean, is what you are asking 4 me do I recall every single statement I've -- 5 Q. No, sir. I'm asking if your 6 statement, any statement that you have seen, 7 shown up that there was a gift card? 8 A. I've seen a statement that has a 9 gift card on there. I have seen one, a 10 statement. 11 Q. Have you ever called the toll 12 free number and asked about the issue date? 13 A. The calls I mentioned were 14 basically what I've mentioned before. I'm not 15 going to -- I would prefer not to reiterate 16 that whole conversation. I can go through it 17 for five minutes and I would like to be polite 18 and not waste your time. You can just go 19 through the transcript. 20 Q. Mr. Bulsara, when you purchased 21 the card and you called that toll free number, 22 do you have any reason to believe that they 23 don't tell you what the balance on that card 24 is? 25 MR. LALLI: Objection.</p>	<p style="text-align: right;">104</p> <p>1 say yes or no to them. It is kind of hard for 2 me to say that and, for the record, I mean, 3 like I've mentioned before, they are basically 4 -- there are other cards involved. I could 5 well be a victim of the allegations here. 6 Q. But you don't know sitting here 7 today whether you are? 8 A. I don't think a legitimate 9 person would know if they have that many cards 10 would this apply to them, would that not apply 11 to them unless they are an attorney. 12 Q. Have you ever read any articles 13 about gift cards? 14 A. What do you mean by that? 15 Q. Have you ever read any articles 16 about gift cards? 17 A. Articles where? Articles about 18 what? 19 Q. What do you think I mean by that 20 question? 21 A. I might have read in maybe high 22 school what a gift card is maybe or what is a 23 gift card. You take a home economic classes 24 in high school. That type of thing. 25 Q. Sure. That is the only articles</p>
<p style="text-align: right;">103</p> <p>1 A. Can you repeat the question? 2 Q. Sure. 3 (At which time, the last 4 question was read back.) 5 A. What does that mean? 6 Q. I don't know. That's in your 7 complaint, Mr. Bulsara. 8 A. What do you mean by -- I mean, 9 what do you mean by that? See, whatever you 10 say is not verbatimly written. I can 11 basically say that whatever you say is not -- 12 your line of questioning is not going to be 13 written verbatim in this complaint, so just 14 let's just try to basically be more specific 15 on this. Like, what are you trying to ask me 16 exactly? 17 Q. I'm trying to find out why you, 18 Mr. Bulsara, are suing Commerce Bank. There 19 is a lot of allegations in here that you don't 20 know whether they apply to you or not, 21 correct? 22 A. I would venture to say that they 23 do apply to me, but basically without and for 24 the record, 18 line items I haven't gotten the 25 chance to go through each one and basically</p>	<p style="text-align: right;">105</p> <p>1 that you've read about gift cards is in 2 articles and home economic class? 3 A. I'm giving you an example. I am 4 not trying to say that as an all encompassing 5 statement saying that that is the only 6 statements I've read about gift cards. Yes, I 7 have read articles about gift cards, 8 especially after filing this suit I've read 9 things on-line. 10 Q. Sure. What have you read? 11 A. I've read things about gift 12 cards and these fees and other people being 13 affected by it, as well. 14 Q. Do you recall any articles that 15 you read? 16 A. I don't recall and I can't give 17 you exact websites or anything like that. 18 Q. Have you ever read E Commerce 19 Times? 20 A. Never. Not that I recall. 21 Q. Have you ever read any articles 22 by the Federal Trade Commission? 23 A. What do you mean by that? 24 Q. Have you ever read any articles 25 by the Federal Trade Commission?</p>

27 (Pages 102 to 105)

<p style="text-align: right;">106</p> <p>1 A. Ever?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. What articles have you read with</p> <p>5 respect to gift cards from the Federal Trade</p> <p>6 Commission?</p> <p>7 A. I don't recall.</p> <p>8 Q. Have you ever read a report</p> <p>9 entitled Little Known Gift Card Traps?</p> <p>10 A. I want to say, no, but I'm just</p> <p>11 going to say I do not recall and I would like</p> <p>12 to add to that I really do not recall because</p> <p>13 I generally don't recall and I don't say</p> <p>14 whether I read this or not.</p> <p>15 Q. Did any bank representative make</p> <p>16 any representations to you about the fees</p> <p>17 associated with gift cards?</p> <p>18 A. What do you mean by that? What</p> <p>19 you consider the toll free number on the back</p> <p>20 of the card a bank representative?</p> <p>21 Q. Got those. Anything else?</p> <p>22 A. I mentioned before I do not</p> <p>23 recall, and on the record, I mean, are you</p> <p>24 just trying to basically reaffirm the same</p> <p>25 question two or three times because I just</p>	<p style="text-align: right;">108</p> <p>1 this matter and go to trial. I think that</p> <p>2 this needs to be done.</p> <p>3 Q. Do you have a retainer agreement</p> <p>4 with your attorney?</p> <p>5 A. What does that mean?</p> <p>6 Q. Do you have any agreement that</p> <p>7 shows the relationship between you and your</p> <p>8 attorney?</p> <p>9 A. Yes.</p> <p>10 Q. I'm going to request a copy of</p> <p>11 that agreement.</p> <p>12 A. Okay. Should I send that?</p> <p>13 MR. LALLI: No. I'll take care</p> <p>14 of it.</p> <p>15 (Request)</p> <p>16 Q. How is your counsel being paid</p> <p>17 to represent you?</p> <p>18 A. Well --</p> <p>19 MR. LALLI: Objection. If you</p> <p>20 know the answer to that.</p> <p>21 A. Okay. From my understanding if</p> <p>22 there is a settlement or basically when this</p> <p>23 goes to trial, the judge decides who gets -- I</p> <p>24 mean, if the lawyers get a fee in the first</p> <p>25 place and how much they are awarded.</p>
<p style="text-align: right;">107</p> <p>1 want to be --</p> <p>2 MR. LALLI: It was a different</p> <p>3 question. Just answer the questions. All</p> <p>4 right?</p> <p>5 Q. Have you read any Commerce Bank</p> <p>6 press releases?</p> <p>7 A. What do you mean by that?</p> <p>8 Q. Paragraph 63, 64, 65 of your</p> <p>9 complaint you reference a bunch of different</p> <p>10 press releases. Have you read any press</p> <p>11 releases from Commerce Bank?</p> <p>12 A. No.</p> <p>13 Q. What loss have you suffered as a</p> <p>14 result of Commerce Bank's action?</p> <p>15 MR. LALLI: Objection. You can</p> <p>16 answer.</p> <p>17 A. Well, in parting I think I</p> <p>18 mentioned this. The whole card's value was</p> <p>19 basically depleted because of fees. So to</p> <p>20 answer your question directly, I've suffered a</p> <p>21 financial loss because I could not use the</p> <p>22 gift card at all and basically the whole card</p> <p>23 was depleted. I'm also suffering loss because</p> <p>24 of my time involved in this matter, but I</p> <p>25 mean, I'm more than happy to be involved in</p>	<p style="text-align: right;">109</p> <p>1 Q. So do you know whether the judge</p> <p>2 is going to decide on an hourly basis, on a</p> <p>3 flat fee or contingency fee?</p> <p>4 A. I have no idea what the judge is</p> <p>5 thinking. You can give him a call.</p> <p>6 Q. Is there anything outlined in</p> <p>7 the retainer agreement?</p> <p>8 A. Not that I recall and basically</p> <p>9 I think it has been made pretty clear that the</p> <p>10 judge decides on these matters.</p> <p>11 Q. Other than Silverman and Fodera,</p> <p>12 are you aware of any other attorneys that are</p> <p>13 representing you?</p> <p>14 A. Leonard Fodera, Mike Lalli. I</p> <p>15 don't know anybody else. There are other</p> <p>16 members in the law firm, but, I mean, that's a</p> <p>17 decision on their part. Not mine.</p> <p>18 Q. What search did you undertake to</p> <p>19 locate documents related to your gift cards?</p> <p>20 A. What do you mean by that?</p> <p>21 Q. Did you look to any document</p> <p>22 related to the 12 gift cards you relate to</p> <p>23 this document?</p> <p>24 A. Documents such as -- documents</p> <p>25 such as which? Basically, like, terms or</p>

28 (Pages 106 to 109)

<p style="text-align: right;">110</p> <p>1 basically which --</p> <p>2 Q. Any documents related to the</p> <p>3 gift cards.</p> <p>4 A. Well, I mean, after the fact I</p> <p>5 tried to basically verify on-line I think to</p> <p>6 see exactly if the card was depleted and I saw</p> <p>7 that it was depleted.</p> <p>8 Q. Sure. Mr. Bulsara, after your</p> <p>9 case is filed, did you then go look for</p> <p>10 documents related to this case?</p> <p>11 MR. LALLI: Or before?</p> <p>12 Q. Fair.</p> <p>13 A. I did. I did. I wanted to know</p> <p>14 more about it.</p> <p>15 Q. What documents did you go look</p> <p>16 for?</p> <p>17 A. I can't name a document and</p> <p>18 basically the docket numbers and stuff like</p> <p>19 that, but basically things I've mentioned</p> <p>20 before. I've seen a statement your firm has</p> <p>21 given. I've seen parts -- I've seen the</p> <p>22 complaint. I have not ventured to read</p> <p>23 through the whole thing. I've seen things</p> <p>24 people have -- how people have written on-line</p> <p>25 and how they are affected.</p>	<p style="text-align: right;">112</p> <p>1 A. Old statements.</p> <p>2 Q. Okay. What else? Any receipts</p> <p>3 when you purchased the gift cards?</p> <p>4 A. Not that I recall, no.</p> <p>5 Q. But you haven't looked to see if</p> <p>6 there are, have you?</p> <p>7 A. I mean, I don't even think that</p> <p>8 they are given. I really don't remember. I</p> <p>9 really don't know.</p> <p>10 Q. Boxes or terms and conditions</p> <p>11 that the gift cards come in. Have you looked</p> <p>12 to see if those are in your house?</p> <p>13 A. I've not looked -- I mean, have</p> <p>14 not gone through that kind of measure, no.</p> <p>15 Q. Do you keep a filing cabinet or</p> <p>16 some sort of filing system for your bank</p> <p>17 records?</p> <p>18 A. Filing system, no.</p> <p>19 Q. Where would you look for records</p> <p>20 related to gift cards, these documents that</p> <p>21 you have?</p> <p>22 A. I mean, I just keep a box and I</p> <p>23 just basically shove stuff in there and</p> <p>24 basically at some point during cleaning I will</p> <p>25 maybe throw it away, so I maybe have some</p>
<p style="text-align: right;">111</p> <p>1 Q. I'm talking about documents that</p> <p>2 you have in your possession or your father's</p> <p>3 possession because you have a joint account</p> <p>4 that relate to the gift cards, those 12 gift</p> <p>5 cards that you purchased.</p> <p>6 A. I'm sure. I mean, if I had to</p> <p>7 dig up those kind of records and go through</p> <p>8 statements, maybe I can do so, but I mean, it</p> <p>9 may come up in discovery. It is going to be</p> <p>10 basically this kind of stuff. It's going to</p> <p>11 be in possession of TD Bank because they keep</p> <p>12 these kind of records and, see, the thing if I</p> <p>13 were to even go and -- and I'm just assuming</p> <p>14 this. If I had to go and basically ask for</p> <p>15 records.</p> <p>16 MR. LALLI: Nick, let me</p> <p>17 short-circuit this. We are not talking about</p> <p>18 documents you would have to obtain from the</p> <p>19 bank. We are talking about documents that you</p> <p>20 or your father have in your possession. Is</p> <p>21 that fair?</p> <p>22 Q. There are documents?</p> <p>23 A. Yes.</p> <p>24 Q. What documents are in your and</p> <p>25 your father's possession?</p>	<p style="text-align: right;">113</p> <p>1 things. I may not have some things.</p> <p>2 Q. But before today you haven't</p> <p>3 looked for those documents, correct?</p> <p>4 A. Documents such as statements?</p> <p>5 Q. Documents related to your gift</p> <p>6 cards.</p> <p>7 A. I did look through something. I</p> <p>8 think I mentioned those things to you. I</p> <p>9 mean, I basically mentioned that I tried to</p> <p>10 look for old statements. I tried to --</p> <p>11 basically tried to do my best and if I had to</p> <p>12 spend more time, I could do so. If I had to</p> <p>13 spend more time in preparing more documents,</p> <p>14 maybe I can.</p> <p>15 Q. What documents does your father</p> <p>16 have in his possession?</p> <p>17 A. I have no idea. I don't ask him</p> <p>18 about his personal life.</p> <p>19 Q. Did you ever ask your father why</p> <p>20 he waited so long to give you the gift card on</p> <p>21 Bulsara-1?</p> <p>22 A. I don't recall asking him that.</p> <p>23 Oh, wait. I think there may have been a time</p> <p>24 where basically when we were discussing this,</p> <p>25 I had mentioned that the active through date</p>

29 (Pages 110 to 113)

<p style="text-align: right;">114</p> <p>1 is 10/09 and he said, oh, yes. I thought the  2 same thing and maybe that was his assumption  3 that basically that is maybe why he held on to  4 it. It's just a theory. I'm basically  5 hypothesizing. I really don't know. I can't  6 basically say why he held on to the cards for  7 that long.  8 Q. Are you related by blood or  9 marriage to any member of the Silverman and  10 Fodera law firm?  11 A. No.  12 Q. Did you go to school with any  13 members of the Silverman and Fodera law firm?  14 A. No.  15 Q. Grow up in the same neighborhood  16 as any of them?  17 A. No.  18 Q. Any business relationships with  19 any of them?  20 A. No.  21 Q. Before you picked up the phone  22 and you talked to Mike Lalli, have you ever  23 had any prior conversations with Mike Lalli?  24 A. Never.  25 Q. About anything?</p>	<p style="text-align: right;">116</p> <p>1 MR. LALLI: The question is what  2 did you do to prepare for today's deposition?  3 MR. STIO: Correct.  4 MR. LALLI: Not what you didn't  5 do. What did you do?  6 A. Off the record.  7 Q. No. Go ahead. What did you do?  8 MR. LALLI: Answer the question.  9 Outside of conversations with me, what did you  10 do to prepare?  11 A. Okay. I tried to basically look  12 at to see if other -- a lot of other people  13 were affected. I did a Google search. I see  14 that there are people affected. I just came  15 here trying to give honest testimony as to  16 what happened to me as a real life end user of  17 the card. I didn't expect a line of  18 questioning as to the legal documents. I  19 wasn't expecting that. That's basically what  20 I did to prepare. Basically I brought the  21 cards and that's it. I made myself available  22 for today.  23 Q. Mr. Bulsara, you talked about  24 stress and duress that this has caused you.  25 Did you go see a doctor for that?</p>
<p style="text-align: right;">115</p> <p>1 A. Never.  2 Q. What did you do to prepare for  3 this deposition?  4 A. Well, I was told you are a nice  5 guy, so I mean, I was just going to answer you  6 candidly, so I tried my best to do so.  7 Michael told me you are such a nice guy.  8 Q. Nick, I think I am. So other  9 than that, you didn't do any preparation for  10 this?  11 A. Maybe you make me want to  12 prepare. You motivate me to prepare. I would  13 really like to prepare now.  14 Q. But my question to you is,  15 before today, you didn't prepare, correct?  16 A. I did prepare. I did prepare  17 some. I did prepare as much as -- I didn't  18 prepare as much as I would like. I wish I  19 could read through this 60-page document.  20 MR. LALLI: Nick, let me stop  21 you.  22 MR. STIO: Off the record,  23 please.  24 (At which time, an  25 off-the-record discussion took place.)</p>	<p style="text-align: right;">117</p> <p>1 A. No.  2 Q. Are you taking any medications  3 for that?  4 A. No.  5 Q. Would you ever buy a gift card  6 from either TD Bank or Commerce Bank?  7 A. Probably not.  8 Q. Do you have any intentions to do  9 so?  10 A. No.  11 Q. Why don't we take a five minute  12 break and then we can finish up.  13 (At which time, a short recess  14 was taken.)  15 Q. Mr. Bulsara, the gift cards in  16 your circumstances, do you believe that the  17 purchase of the gift cards in your  18 circumstances are similar to the circumstances  19 of the other people who are members of the  20 class?  21 A. You mean, the plaintiffs or  22 basically the people who purchased gift cards?  23 Q. Well, what is the difference  24 between the plaintiff and the people who  25 purchased gift cards?</p>

30 (Pages 114 to 117)



<p style="text-align: right;">118</p> <p>1 A. I am assuming the people who 2 purchased gift cards have to be notified that 3 there is a class action lawsuit here. Are you 4 saying that -- are you asking me do they know 5 about it? 6 Q. No. Are their circumstances the 7 same as your circumstances? 8 A. I would assume so. I mean, I 9 assume they are pretty similar. They may have 10 been assessed the replacement card fee, as I 11 mentioned before. 12 Q. Any other similarities? 13 A. I'm sure they have been given 14 cards for their birthdays. I'm sure for 15 Christmas. I'm sure they have been given 16 cards for Valentine's day, even Thanksgiving. 17 Black Friday. Who knows. 18 Q. What influenced you to be a 19 class representative as opposed to just a 20 member of the class? 21 A. Well, I mean, I'm just venturing 22 a guess maybe because I don't know. 10,000. 23 Maybe 100,000 people affected by it. That's 24 not many people that stepped up I see, so I 25 think it's worth while to step up. I think</p>	<p style="text-align: right;">120</p> <p>1 blanket assumption. 2 Q. I have no further questions for 3 you. 4 EXAMINATION BY MR. LALLI: 5 Q. I have a few questions to 6 follow-up to clear some stuff up. 7 A. Okay. 8 Q. First, and you may have already 9 testified to this, but you promised to 10 adequately and fairly protect the interests of 11 the class? 12 A. Yes. 13 Q. There was a line of questioning 14 about whether you felt you suffered loss. Do 15 you remember that line of questioning? 16 A. Yes. 17 Q. Okay. And your answers went to 18 the card on Bulsara-1. Did you also suffer a 19 loss on the card that was identified as 20 Bulsara-2? 21 A. Yes. 22 Q. And did the same type of conduct 23 of the bank affect Bulsara-2 as it did in 24 Bulsara-1? 25 A. Yes.</p>
<p style="text-align: right;">119</p> <p>1 most people just throw away the card. Just 2 forget about it. Oh, I've been assessed a 3 fee. Throw it in the garbage. 4 Q. But the class action is ongoing 5 and you decide because you could have been a 6 member of the class, but you decided to be a 7 representative. I want to know why you wanted 8 to be a representative. 9 A. I think my story fits a lot of 10 people who would be members of the class 11 because I think a lot of people do get gift 12 cards on their birthdays from father, their 13 mother, their friends and they would be \$25 14 gift cards or \$50 gift cards. Who knows. It 15 could be any denomination. Could be very 16 similar. I'm sure maybe they don't know about 17 the fees. I'm sure they don't really know 18 about it and if they were to know, I don't 19 know. I don't know what would happen. 20 Q. Does your father generally 21 purchase gift cards and hold on to them for 22 long periods of time? 23 A. I don't know. 24 Q. Okay. 25 A. I can't make that kind of</p>	<p style="text-align: right;">121</p> <p>1 Q. Those are all the questions I 2 have. 3 CONTINUED EXAMINATION BY MR. STIO: 4 Q. I have follow-up. How do you 5 intend to adequately and fairly represent the 6 class? 7 A. I mean, I'm ready to go to 8 trial. I'm ready to invest my time in it and 9 do due diligence in it. I'm ready to 10 cooperate with defense counsel and the counsel 11 representing me. I'm ready to basically look 12 into and read all the legal documents and I 13 will try to understand to the best of my 14 ability. Basically, to do whatever it takes. 15 If it becomes, like, a public thing where, 16 hey, it pops in the Wall Street Journal. It 17 pops on the CNBC. It pops up here or there, 18 hey, it has to be done. 19 Q. Are you a holder of a card or 20 are you a recipient of a card or are you both? 21 A. What do you mean by that? 22 Q. In the complaint -- 23 A. What do you define a holder of a 24 card as? 25 Q. The way you define it in the</p>

31 (Pages 118 to 121)

<p style="text-align: right;">122</p> <p>1 complaint that was filed on your behalf, sir.</p> <p>2 A. Can I ask my attorney what --</p> <p>3 Q. You can say I don't know.</p> <p>4 MR. LALLI: Answer the question</p> <p>5 to the best of your knowledge and --</p> <p>6 THE WITNESS: Can you repeat the</p> <p>7 question?</p> <p>8 MR. LALLI: Understanding that</p> <p>9 the complaint was drafted by your counsel.</p> <p>10 (At which time, the last</p> <p>11 question was read back.)</p> <p>12 A. I'm a holder in the sense that I</p> <p>13 have the card in my possession. I am a</p> <p>14 recipient that I was given the card. That is</p> <p>15 the best I can answer you on that.</p> <p>16 Q. What about a purchaser?</p> <p>17 A. I don't recollect.</p> <p>18 Q. How do you intend to adequately</p> <p>19 and fairly represent the purchasers of the</p> <p>20 card?</p> <p>21 A. What do you mean by that?</p> <p>22 Q. Purchasers that are referenced</p> <p>23 in your complaint.</p> <p>24 A. Well, I mean, for one thing</p> <p>25 maybe I can ask my dad, like, what does he</p>	<p style="text-align: right;">124</p> <p>1 E R R A T A.</p> <p>2 PAGE LINE CHANGE</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>
<p style="text-align: right;">123</p> <p>1 feel about it, his emotions and how his son</p> <p>2 was not given his birthday present. Maybe I</p> <p>3 could -- I mean, this is something that</p> <p>4 basically I think that can come up in trial.</p> <p>5 I think so.</p> <p>6 Q. Okay. I have no further</p> <p>7 questions. Thank you for your time.</p> <p>8 A. Okay.</p> <p>9 (At which time, the deposition</p> <p>10 of Nick Bulsara was concluded at 2:56 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">125</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, _____, do hereby certify that I</p> <p>4 have read the foregoing pages, and the same is</p> <p>5 a correct transcription of the answers given</p> <p>6 by me to the questions therein propounded,</p> <p>7 except for the corrections or changes in form</p> <p>8 or substance, if any, noted in the attached</p> <p>9 Errata Sheet.</p> <p>10</p> <p>11 _____</p> <p>12 SIGNATURE DATE</p> <p>13</p> <p>14 Subscribed and sworn to before me this</p> <p>15 _____</p> <p>16 day of _____, 2010.</p> <p>17 My commission expires: _____</p> <p>18</p> <p>19 _____</p> <p>20 Notary Public</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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## 1 CERTIFICATE

2 I, CYNTHIA BAUERLE, a Notary  
3 Public and Certified Shorthand Reporter of the  
4 State of New Jersey, do hereby certify that  
5 prior to the commencement of the examination,  
6 NIKUNJ BULSARA was duly sworn by me to testify  
7 the truth, the whole truth and nothing but the  
8 truth.

9 I DO FURTHER CERTIFY that the  
10 foregoing is a true and accurate transcript of  
11 testimony as taken stenographically by and  
12 before me at the time, place and on the date  
13 hereinbefore set forth, to the best of my  
14 ability.

15 I DO FURTHER CERTIFY that I am  
16 neither a relative nor employee nor attorney  
17 nor counsel of any of the parties to this  
18 action, and that I am neither a relative nor  
19 employee of such attorney or counsel, and that  
20 I am not financially interested in the action.

21 \_\_\_\_\_  
22 CYNTHIA BAUERLE, CSR No. 30XI00198500  
23 Expiration: June 30, 2010  
24 Notary Public of the State of New Jersey  
25 Notary expiration: June 5, 2011

A			
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## **EXHIBIT I**

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BRADLEY MANN, et al.,

on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

TD BANK, N.A., et al.,

Defendants.

**CONFIDENTIAL**

No. 1:09-cv-01062-RBK-AMD

**TD BANK, N.A.'S SUPPLEMENTAL  
OBJECTIONS AND RESPONSES TO  
PLAINTIFFS' INTERROGATORIES  
DIRECTED TO ALL DEFENDANTS (FIRST  
SET)**

Defendant TD Bank, N.A. for itself and its predecessor in interest, Commerce Bank, N.A. (collectively "TD Bank"), by and through its undersigned counsel, Pepper Hamilton LLP, hereby makes its supplemental objections and responses to Plaintiffs' Interrogatories Directed to All Defendants (First Set) ("Interrogatories") as follows:

**GENERAL OBJECTIONS**

The specific responses to the Interrogatories set forth herein are made subject to the following general responses, reservations, and objections:

1. TD Bank objects to the Interrogatories to the extent they seek the disclosure of information and/or documents protected from disclosure by the attorney-client privilege, the work-product doctrine, or by any other privilege or doctrine available under federal or state statutory, constitutional, or common law. Inadvertent disclosure of such information or documents shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such documents, nor shall inadvertent disclosure waive TD Bank's right to object to the use of any such information or documents in any proceeding.



2. TD Bank objects to the Interrogatories to the extent they seek disclosure of proprietary, confidential business information, and/or documents, and will only disclose such information or documents pursuant to a confidentiality agreement entered into by the parties.

3. TD Bank objects to Plaintiffs' first "instruction" on the ground that it would render the Interrogatories overly broad, vague, ambiguous, and unduly burdensome and would result in more than 25 interrogatories without leave of court.

4. The general objections stated herein are incorporated by reference into each response herein, as if fully set forth below. No such objection is waived by answering any particular Interrogatory in whole or in part. Any response provided herein is subject to and limited by all general objections stated herein.

5. TD Bank's responses to the Interrogatories are made after a reasonable inquiry into the relevant facts within the time allowed for responding to the Interrogatories. TD Bank expressly reserves its right to supplement, amend, correct, or modify its respective responses or objections.

#### **SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES**

6. How many gift cards were sold by Commerce Bank and TD Bank in New Jersey from 2004 to the present?

**ANSWER:** In addition to its General Objections, each of which is incorporated herein by reference, TD Bank specifically objects to this interrogatory on the ground that it seeks information that is neither relevant to the claim or defense of any party, nor admissible, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver or limitation of the foregoing objections, TD Bank states that, to the best it can determine based on information in its possession, Commerce Bank, N.A. sold 1,698,791 cards in New Jersey branch offices from 2004 until May 31, 2008, when it ceased to exist, and TD Bank, N.A.

sold 1,403,026 gift cards in New Jersey branch offices from June 1, 2008, through December 2009.

7. On how many New Jersey-purchased Commerce and TD Bank gift cards were dormancy fees assessed from 2004 to the present?

**ANSWER:** In addition to its General Objections, each of which is incorporated herein by reference, TD Bank specifically objects to this interrogatory on the ground that it seeks information that is neither relevant to the claim or defense of any party, nor admissible, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver or limitation of the foregoing objections, TD Bank states that, to the best it can determine based on information in its possession, from 2004 until May 31, 2008, Commerce Bank, N.A. sold 888,406 gift cards in New Jersey branch offices that were assessed at least one monthly service fee at any time up to December 31, 2009, and from June 1, 2008 until December 31, 2009, TD Bank, N.A. sold 77,874 gift cards in New Jersey branch offices that were assessed at least one monthly service fee during that time period.

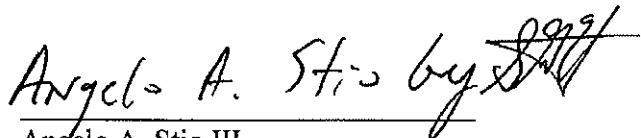
8. What is the total amount of dormancy fees assessed and collected by Commerce Bank on its gift cards purchased in New Jersey from 2004 to the present?

**ANSWER:** In addition to its General Objections, each of which is incorporated herein by reference, TD Bank specifically objects to this interrogatory on the ground that it seeks information that is neither relevant to the claim or defense of any party, nor admissible, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver or limitation of the foregoing objections, TD Bank states that, to the best it can determine based on information in its possession, from 2004 until December 31, 2009, \$6,817,929 in monthly service fees was assessed and/or collected by Commerce Bank, N.A. or its successor TD Bank, N.A. on gift cards sold by Commerce Bank, N.A. in its New Jersey branch offices from 2004 until May 31, 2008.

9. What is the total amount of dormancy fees assessed and collected by TD Bank on its gift cards purchased in New Jersey from 2004 to the present?

**ANSWER:** In addition to its General Objections, each of which is incorporated herein by reference, TD Bank specifically objects to this interrogatory on the ground that it seeks information that is neither relevant to the claim or defense of any party in the pending action, nor admissible, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver or limitation of the foregoing objections, TD Bank states that, to the best it can determine based on information in its possession, from June 1, 2008 until December 31, 2009, \$311,880 in monthly service fees was assessed and/or collected by TD Bank, N.A. on gift cards sold by TD Bank, N.A. in its New Jersey branch offices from June 1, 2008 until December 31, 2009.

As to the objections,



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Dated: April 13, 2010

*Attorneys for Defendants TD Bank, N.A. and  
Commerce Bank, N.A.*

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BRADLEY MANN, et al.,

on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

TD BANK, N.A., et al.,

Defendants.

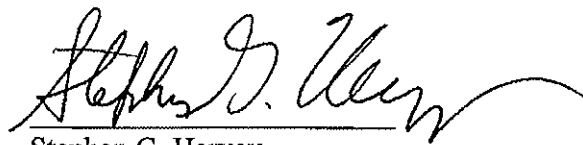
No. 1:09-cv-01062-RBK-AMD

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2010, a true and correct copy of TD Bank, N.A.'s Supplemental Objections and Responses to Plaintiffs' Interrogatories Directed to All Defendants (First Set) and TD Bank, N.A.'s Objections and Responses to Plaintiffs' Requests for Production Directed to All Defendants (First Set) was served upon the following counsel of record via email and first class mail:

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